# 103d CONGRESS **H. R. 3474**

# **AMENDMENT**

# In the Senate of the United States,

March 17 (legislative day, February 22), 1994.

Resolved, That the bill from the House of Representatives (H.R. 3474) entitled "An Act to reduce administrative requirements for insured depository institutions to the extent consistent with safe and sound banking practices, to facilitate the establishment of community development financial institutions, and for other purposes", do pass with the following

## **AMENDMENT:**

Strike out all after the enacting clause and insert:

### 1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

- 2 (a) Short Title.—This Act may be cited as the
- 3 "Community Development, Credit Enhancement, and Reg-
- 4 ulatory Improvement Act of 1994".
- 5 (b) Table of Contents.—The table of contents for
- 6 this Act is as follows:

Sec. 1. Short title; table of contents.

### TITLE I—COMMUNITY DEVELOPMENT AND CONSUMER PROTECTION

### Subtitle A—Community Development Banking and Financial Institutions Act

- Sec. 101. Short title.
- Sec. 102. Findings and purposes.
- Sec. 103. Definitions.
- Sec. 104. Establishment of national fund for community development banking.
- Sec. 105. Applications for assistance.
- Sec. 106. Community partnerships.
- Sec. 107. Selection of institutions.
- Sec. 108. Assistance provided by the Fund.
- Sec. 109. Community development training.
- Sec. 110. Encouragement of private entities.
- Sec. 111. Clearinghouse function.
- Sec. 112. Recordkeeping, reports, and audits.
- Sec. 113. Investment of receipts and proceeds.
- Sec. 114. Inspector General.
- Sec. 115. Capitalization assistance to enhance liquidity.
- Sec. 116. Community development revolving loan fund for credit unions.
- Sec. 117. Regulations.
- Sec. 118. Authorization of appropriations.

### Subtitle B—Home Ownership and Equity Protection

- Sec. 151. Consumer protections for high cost mortgages.
- Sec. 152. Civil liability.
- Sec. 153. Reverse mortgage disclosure.
- Sec. 154. Regulations; effective date.

### TITLE II—SMALL BUSINESS CAPITAL FORMATION

### Subtitle A—Small Business Loan Securitization

- Sec. 201. Short title.
- Sec. 202. Small business related security.
- Sec. 203. Applicability of margin requirements.
- Sec. 204. Borrowing in the course of business.
- Sec. 205. Small business related securities as collateral.
- Sec. 206. Investment by depository institutions.
- Sec. 207. Preemption of State law.
- Sec. 208. Insured depository institution capital requirements for transfers of small business obligations.
- Sec. 209. Transactions in small business related securities by employee benefit plans.
- Sec. 210. Sense of the Senate on taxation of small business loan investment conduits.

### Subtitle B—Small Business Capital Enhancement

- Sec. 251. Findings and purposes.
- Sec. 252. Definitions.
- Sec. 253. Approving States for participation.
- Sec. 254. Participation agreements.
- Sec. 255. Terms of participation agreements.
- Sec. 256. Reports.
- Sec. 257. Reimbursement by the Secretary.

- Sec. 258. Reimbursement to the Secretary.
- Sec. 259. Regulations.
- Sec. 260. Authorization of appropriations.

# TITLE III—PAPERWORK REDUCTION AND REGULATORY IMPROVEMENT

- Sec. 301. Incorporated definitions.
- Sec. 302. Administrative consideration of burden with new regulations.
- Sec. 303. Streamlining of regulatory requirements.
- Sec. 304. Elimination of duplicative filings.
- Sec. 305. Coordinated and unified examinations.
- Sec. 306. Eighteen-month examination rule for certain small institutions.
- Sec. 307. Call report simplification.
- Sec. 308. Repeal of publication requirements.
- Sec. 309. Regulatory appeals process.
- Sec. 310. Electronic filing of currency transaction reports.
- Sec. 311. Bank Secrecy Act publication requirements.
- Sec. 312. Exemption of business loans from Real Estate Settlement Procedures Act requirements.
- Sec. 313. Flexibility in choosing boards of directors.
- Sec. 314. Holding company audit requirements.
- Sec. 315. State regulation of real estate appraisals.
- Sec. 316. Acceleration of effective date for interaffiliate transactions.
- Sec. 317. Collateralization of public deposits.
- Sec. 318. Elimination of stock valuation provision.
- Sec. 319. Expedited procedures for forming a bank holding company.
- Sec. 320. Exemption of certain holding company formations from registration under the Securities Act of 1933.
- Sec. 321. Reduction of post-approval waiting period for bank holding company acquisitions.
- Sec. 322. Reduction of post-approval waiting period for bank mergers.
- Sec. 323. Bankers' banks.
- Sec. 324. Bank Service Corporation Act amendment.
- Sec. 325. Merger transaction reports.
- Sec. 326. Credit card accounts receivable sales.
- Sec. 327. Limiting potential liability on foreign accounts.
- Sec. 328. Amendments to outdated dividend provisions.
- Sec. 329. Elimination of duplicative disclosures for home equity loans.
- Sec. 330. Report on capital standards and their impact on the economy.
- Sec. 331. Studies on the impact of the payment of interest on reserves.
- Sec. 332. Study and report on streamlined lending process for consumer benefit.
- Sec. 333. Repeal of outdated charter requirement for national banks.
- Sec. 334. Inclusion of Comptroller of the Currency; clarification of revised stat-
- Sec. 335. Commemoration of 1995 Special Olympic World Games.
- Sec. 336. Exemption for business accounts.
- Sec. 337. Board discretion regarding check-related fraud.
- Sec. 338. Civil liability under truth in savings.
- Sec. 339. Insider lending.
- Sec. 340. Revisions of standards.
- Sec. 341. Alternative rules for radio advertising of consumer leases.
- Sec. 342. Deposit broker registration.
- Sec. 343. Extension of management interlocks grandfather clause.
- Sec. 344. Clarification of provision relating to administrative autonomy.

- Sec. 345. Consumer surveys and report.
- Sec. 346. Simplified disclosure for existing depositors.
- Sec. 347. Commercial mortgage related securities.
- Sec. 348. Offset of costs of certain programs.

### TITLE IV-MONEY LAUNDERING

- Sec. 401. Short title.
- Sec. 402. Reform of CTR exemption requirements to reduce number and size of reports consistent with effective law enforcement.
- Sec. 403. Single designee for reporting of suspicious transactions.
- Sec. 404. Improvement of identification of money laundering schemes.
- Sec. 405. Negotiable instruments drawn on foreign banks subject to recordkeeping and reporting requirements.
- Sec. 406. Imposition of civil money penalties by appropriate Federal banking agencies.
- Sec. 407. Uniform State licensing and regulation of check cashing, currency exchange, and money transmitting businesses.
- Sec. 408. Registration of money transmitting businesses to promote effective law enforcement.
- Sec. 409. Criminal and civil penalty for structuring domestic and international transactions.
- Sec. 410. GAO study of chasiers' checks.

### TITLE V-FAIR TRADE IN FINANCIAL SERVICES

- Sec. 501. Short title.
- Sec. 502. Effectuating the principle of national treatment for banking organizations.
- Sec. 503. Effectuating the principle of national treatment for securities organiza-
- Sec. 504. Effectuating the principle of national treatment for insurers and reinsurers.
- Sec. 505. Financial interdependence study.
- Sec. 506. Federal Reserve report on the Foreign Bank Supervision Enhancement Act of 1991.
- Sec. 507. Conforming amendments.

### TITLE VI—NATIONAL FLOOD INSURANCE REFORM

- Sec. 601. Short title.
- Sec. 602. Congressional findings.
- Sec. 603. Definition.

### SUBTITLE A—DEFINITIONS

- Sec. 611. Flood Disaster Protection Act of 1973.
- Sec. 612. National Flood Insurance Act of 1968.

### SUBTITLE B—COMPLIANCE AND INCREASED PARTICIPATION

- Sec. 621. Expanded flood insurance purchase requirements.
- Sec. 622. Excrow of flood insurance payments.
- Sec. 623. Notice requirements.
- Sec. 624. Placement of flood insurance by regulated lending institution, Federal agency lender, or servicer.
- Sec. 625. Standard flood hazard determination forms.

- Sec. 626. Examination regarding compliance by regulated lending institutions.
- Sec. 627. Penalties and corrective actions for failure to require flood insurance, escrow, or notify.
- Sec. 628. Financial institutions examination council.
- Sec. 629. Conforming amendment.

# Subtitle C—Ratings and Incentives for Community Floodplain Management Programs

- Sec. 631. Community rating system and incentives for community floodplain management.
- Sec. 632. Funding.
- Sec. 633. Reasonable fees.

### Subtitle D-Mitigation of Flood and Erosion Risks

- Sec. 641. Mitigation assistance in Federal insurance administration.
- Sec. 642. Authorization of national flood and erosion mitigation funds under section 1362.
- Sec. 643. State and community mitigation assistance program.
- Sec. 644. Repeal of program for purchase of certain insured properties.
- Sec. 645. Termination of erosion threatened structures program.
- Sec. 646. Congressional findings and declaration of purchase under the National Flood Insurance Act of 1968.

### Subtitle E-Flood Insurance Task Force

Sec. 651. Flood insurance interagency task force.

### SUBTITLE F-MISCELLANEOUS PROVISIONS

- Sec. 661. Maximum flood insurance coverage amounts.
- Sec. 662. Additional coverage for compliance with land use and control measures.
- Sec. 663. Flood insurance program arrangements with private insurance entities.
- Sec. 664. Updating of flood insurance rate maps.
- Sec. 665. Evaluation of erosion hazards.
- Sec. 666. Coordination of flood insurance rate map revisions and updates with coastal zone management programs.
- Sec. 667. Technical Mapping Advisory Council.
- Sec. 668. Funding for increased administrative and operational responsibilities.
- Sec. 669. Separate account for National Flood Insurance Fund.
- Sec. 670. Nonwaiver of flood purchase requirement for recipients of Federal disaster assistance.
- Sec. 671. Insurance waiting period.
- Sec. 672. Agricultural structures.
- Sec. 673. Implementation review by the director.
- Sec. 674. Regulations.
- Sec. 675. Prohibited flood disaster assistance.

### TITLE VII—GENERAL PROVISIONS

- Sec. 701. Study of effect of the Northern spotted owl on small business concerns.
- Sec. 702. Negative information about consumer.
- Sec. 703. United Nations resolutions concerning Jerusalem.
- Sec. 704. Amendment to the Federal Reserve Act.
- Sec. 705. Oversight hearings.
- Sec. 706. Insurance transfer agreement.

### TITLE I—COMMUNITY DEVELOP-MENT AND CONSUMER PRO-2 **TECTION** 3 Subtitle A—Community Development Banking and Financial In-5 stitutions Act 6 7 SEC. 101. SHORT TITLE. This subtitle may be cited as the "Community Devel-8 opment Banking and Financial Institutions Act of 1994". 10 SEC. 102. FINDINGS AND PURPOSES. (a) Findings.—The Congress finds that— 11 12 (1) many of the Nation's urban, rural, and Na-13 tive American communities face critical social and 14 economic problems arising in part from the lack of economic growth, people living in poverty, and the 15 lack of employment and other opportunities; 16 17 (2) the restoration and maintenance of the economies of these communities will require coordinated de-18 19 velopment strategies, intensive supportive services, 20 and increased access to equity investments and loans 21 for development activities, including investment in businesses, housing, commercial real estate, human 22 development, and other activities that promote the 23 24 long-term economic and social viability of the com-

munity; and

1	(3) community development financial institu-
2	tions have proven their ability to identify and re-
3	spond to community needs for equity investments,
4	loans, and development services.
5	(b) Purpose.—The purpose of this subtitle is to create
6	a Community Development Financial Institutions Fund
7	that will promote economic revitalization and community
8	development through a program of investment in and as-
9	sistance to community development financial institutions,
10	including enhancing the liquidity of community develop-
11	ment financial institutions.
12	SEC. 103. DEFINITIONS.
13	For purposes of this subtitle, the following definitions
14	shall apply:
15	(1) Appropriate federal banking agency.—
16	The term "appropriate Federal banking agency" has
17	the same meaning as in section 3 of the Federal De-
18	posit Insurance Act, and also includes the National
19	Credit Union Administration Board with respect to
20	insured credit unions.
21	(2) Affiliate.—The term "affiliate" has the
22	same meaning as in section 2(k) of the Bank Holding
23	Company Act of 1956.

1	(3) Community development financial insti-
2	TUTION.—
3	(A) In general.—The term "community
4	development financial institution'' means a per-
5	son (other than an individual) that—
6	(i) has a primary mission of promot-
7	ing community development;
8	(ii) serves an investment area or tar-
9	geted population;
10	(iii) directly, through an affiliate, or
11	through a community partnership, provides
12	development services and equity investments
13	or loans;
14	(iv) maintains, through representation
15	on its governing board or otherwise, ac-
16	countability to residents of its investment
17	area or targeted population; and
18	(v) is not an agency or instrumentality
19	of the United States, or of any State or po-
20	litical subdivision of a State.
21	(B) Qualification of affiliates.—A
22	subsidiary may only qualify as a community de-
23	velopment financial institution if its parent
24	company and the subsidiaries thereof (on a con-

- solidated basis) also qualify as community development financial institutions.
- 3 (4) Community Partner.—The term "commu-4 nity partner" means a person (other than an individual) that provides loans, equity investments, or devel-5 opment services, including a depository institution 6 7 holding company, an insured depository institution, an insured credit union, a nonprofit organization, a 8 9 State or local government agency, a quasi-governmental entity, and an investment company author-10 11 ized to operate pursuant to the Small Business In-12 vestment Act of 1958.
  - (5) Community partnership" means an agreement between a community development financial institution and a community partner to provide development services and loans or equity investments to an investment area or targeted population.
  - (6) Depository institution holding com-PANY.—The term "depository institution holding company" has the same meaning as in section 3 of the Federal Deposit Insurance Act.
- 23 (7) DEVELOPMENT SERVICES.—The term "devel-24 opment services" means activities that promote com-

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1	munity development and are integral to lending or
2	investment activities, including—
3	(A) business planning;
4	(B) financial and credit counseling; and
5	(C) marketing and management assistance.
6	(8) Insured community development finan-
7	CIAL INSTITUTION.—The term "insured community
8	development financial institution" means any com-
9	munity development financial institution that is an
10	insured depository institution or an insured credit
11	union.
12	(9) Insured credit union.—The term "insured
13	credit union" has the same meaning as in section
14	101(7) of the Federal Credit Union Act.
15	(10) Insured depository institution.—The
16	term "insured depository institution" has the same
17	meaning as in section 3 of the Federal Deposit Insur-
18	ance Act.
19	(11) Investment area.—The term "investment
20	area'' means a geographic area that—
21	(A)(i) meets objective criteria of economic
22	distress developed by the Community Develop-
23	ment Financial Institutions Fund, which may
24	include the percentage of low-income families or
25	the extent of poverty, the rate of unemployment

1	or underemployment, lag in population growth,
2	and extent of blight and disinvestment; and
3	(ii) has significant unmet needs for loans or
4	equity investments;
5	(B) is located in an empowerment zone or
6	enterprise community designated under section
7	1391 of the Internal Revenue Code of 1986;
8	(C) is located on an Indian reservation, as
9	defined in section 3(d) of the Indian Financing
10	Act of 1974 or section 4(10) of the Indian Child
11	Welfare Act of 1978; or
12	(D) is located in an area which is not a
13	metropolitan statistical area and which has ex-
14	perienced a decrease in population of not less
15	than 10 percent (as determined in the most re-
16	cent decennial census) between 1980 and 1990.
17	(12) Low-income.—The term "low-income"
18	means having an income, adjusted for family size, of
19	not more than—
20	(A) for metropolitan areas, 80 percent of the
21	area median income; and
22	(B) for nonmetropolitan areas, the greater
23	of—
24	(i) 80 percent of the area median in-
25	come; or

1	(ii) 80 percent of the statewide
2	nonmetropolitan area median income.
3	(13) Parent company.—The term "parent com-
4	pany'' means any company that directly or indirectly
5	controls another company.
6	(14) Subsidiary" has
7	the same meaning as in section 3 of the Federal De-
8	posit Insurance Act, except that a community devel-
9	opment financial institution that is a corporation
10	shall not be considered to be a subsidiary of any in-
11	sured depository institution or depository institution
12	holding company that controls less than 25 percent of
13	any class of the voting shares of such corporation, and
14	does not otherwise control in any manner the election
15	of a majority of the directors of the corporation.
16	(15) Targeted population.—The term "tar-
17	geted population" means low-income persons or per-
18	sons who otherwise lack adequate access to loans or
19	equity investments.
20	SEC. 104. ESTABLISHMENT OF NATIONAL FUND FOR COM-
21	MUNITY DEVELOPMENT BANKING.
22	(a) Establishment.—
23	(1) In general.—There is established a cor-
24	poration to be known as the Community Development
25	Financial Institutions Fund (hereafter in this subtitle

- referred to as the "Fund") that shall have the duties and responsibilities specified by this subtitle. The Fund shall have succession until dissolved. The offices of the Fund shall be in Washington, D.C. The Fund shall not be affiliated with or be within any other agency or department of the Federal Government.
  - (2) Wholly owned government corporation.—The Fund shall be a wholly owned Government corporation in the executive branch and shall be treated in all respects as an agency of the United States, except as otherwise provided in this subtitle.

    (b) Management of Fund.—
  - (1) Appointment of administrator and dependent of the Fund shall be vested in an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall not engage in any other business or employment during service as the Administrator. The President may appoint a Deputy Administrator by and with the advice and consent of the Senate. The Deputy Administrator shall serve as the acting Administrator of the Fund during the absence or disability of the Administrator or in the event of a vacancy in the office of the Administrator.

1	(2) Chief financial officer.—The Adminis-
2	trator shall appoint a chief financial officer who shall
3	oversee the financial management activities of the
4	Fund.
5	(3) Other officers.—The Administrator may
6	appoint such other officers and employees of the Fund
7	as the Administrator determines to be necessary or
8	appropriate.
9	(c) GENERAL POWERS.—In carrying out the functions
10	of the Fund, the Administrator—
11	(1) shall have all necessary and proper authority
12	to carry out this subtitle;
13	(2) shall have the power to adopt, alter, and use
14	a corporate seal for the Fund, which shall be judi-
15	cially noticed;
16	(3) may adopt, amend, and repeal bylaws, rules,
17	and regulations governing the manner in which busi-
18	ness of the Fund may be conducted and such rules
19	and regulations as may be necessary or appropriate
20	to implement this subtitle;
21	(4) may enter into, perform, and enforce such
22	agreements, contracts, and transactions as may be
23	deemed necessary or appropriate to the conduct of ac-
24	tivities authorized under this subtitle;

1	(5) may determine the character of and necessity
2	for expenditures of the Fund and the manner in
3	which they shall be incurred, allowed, and paid;
4	(6) may utilize or employ the services of person-
5	nel of any agency or instrumentality of the United
6	States with the consent of the agency or instrumental-
7	ity concerned on a reimbursable or nonreimbursable
8	basis; and
9	(7) may execute all instruments necessary or ap-
10	propriate in the exercise of any of the functions of the
11	Fund under this subtitle and may delegate to the offi-
12	cers of the Fund such of the powers and responsibil-
13	ities of the Administrator as the Administrator deems
14	necessary or appropriate for the administration of the
15	Fund.
16	(d) Advisory Board.—
17	(1) Establishment.—The Administrator shall
18	establish an advisory board to be known as the Com-
19	munity Development Advisory Board (hereafter in
20	this subtitle referred to as the "Board") in accordance
21	with the provisions of the Federal Advisory Commit-
22	tee Act.
23	(2) Membership.—
24	(A) In general.—The Board shall consist
25	of 5 private citizens who, collectively—

1	(i) represent community groups whose
2	constituencies include targeted populations
3	or residents of investment areas;
4	(ii) represent local or regional govern-
5	ment interests;
6	(iii) have expertise in the operations
7	and activities of insured depository institu-
8	tions; and
9	(iv) have expertise in community de-
10	velopment and lending.
11	(B) Representation.—Each of the cat-
12	egories described in clauses (i) through (iv) of
13	subparagraph (A) shall be represented by not less
14	than 1 member of the Board.
15	(3) Board function.—It shall be the function
16	of the Board to advise the Administrator on the poli-
17	cies of the Fund. The Board shall not advise the Ad-
18	ministrator on the granting or denial of any particu-
19	lar application.
20	(4) Terms of members.—
21	(A) In general.—Each member of the
22	Board shall serve for a term of 4 years.
23	(B) VACANCIES.—Any member appointed to
24	fill a vacancy occurring prior to the expiration
25	of the term for which the previous member was

1	appointed shall be appointed for the remainder
2	of such term. Members may continue to serve fol-
3	lowing the expiration of their terms until a suc-
4	cessor is appointed and qualified.
5	(5) Chairperson.—The Administrator shall ap-
6	point a chairperson from among the members of the
7	Board.
8	(6) Meetings.—The Board shall meet at least
9	annually and at such other times as requested by the
10	Administrator or the chairperson. A majority of the
11	members of the Board shall constitute a quorum.
12	(7) Reimbursement for expenses.—The
13	members of the Board may receive reimbursement for
14	travel, per diem, and other necessary expenses in-
15	curred in the performance of their duties, in accord-
16	ance with the Federal Advisory Committee Act.
17	(8) Costs and expenses.—The Fund shall pro-
18	vide to the Board all necessary staff and facilities.
19	(e) Conforming Amendments.—Section 9101(3) of
20	title 31, United States Code, is amended—
21	(1) by redesignating subparagraphs (B) through
22	(M) as subparagraphs (C) through (N), respectively;
23	and
24	(2) by inserting after subparagraph (A) the fol-
25	lowing new subparagraph:

1	"(B) the Community Development Finan-
2	cial Institutions Fund;''.
3	(f) Government Corporation Control Act Ex-
4	EMPTION.—Section 9107(b) of title 31, United States Code,
5	shall not apply to deposits of the Fund made pursuant to
6	section 108.
7	(g) Limitation of Fund and Federal Liability.—
8	The liability of the Fund and the United States Government
9	arising out of any investment in a community development
10	financial institution in accordance with this subtitle shall
11	be limited to the amount of the investment. The Fund shall
12	be exempt from any assessments and other liabilities that
13	may be imposed on controlling or principal shareholders
14	by any Federal law or the law of any State, Territory, or
15	the District of Columbia.
16	(h) Prohibition on Issuance of Securities.—The
17	Fund may not issue stock, bonds, debentures, notes, or other
18	securities.
19	(i) Compensation.—Title 5, United States Code, is
20	amended—
21	(1) in section 5314, by adding at the end the fol-
22	lowing:
23	"Administrator of the Community Development
24	Financial Institutions Fund ": and

1	(2) in section 5315, by adding at the end the fol-
2	lowing:
3	"Deputy Administrator of the Community Devel-
4	opment Financial Institutions Fund.''.
5	(j) Assisted Institutions Not United States In-
6	STRUMENTALITIES.—A community development financial
7	institution or other organization that receives assistance
8	pursuant to this subtitle shall not be deemed to be an agen-
9	cy, department, or instrumentality of the United States.
10	SEC. 105. APPLICATIONS FOR ASSISTANCE.
11	(a) Form and Procedures.—An application for as-
12	sistance under this subtitle shall be submitted in such form
13	and in accordance with such procedures as the Fund shall
14	establish.
15	(b) Minimum Requirements.—Except as provided in
16	sections 106 and 115, the Fund shall require an applica-
17	tion—
18	(1) to establish that the applicant is, or will be,
19	a community development financial institution;
20	(2) to include a comprehensive strategic plan for
21	the organization that contains—
22	(A) a business plan of not less than 5 years
23	in duration that demonstrates that the applicant
24	will be properly managed and will have the ca-
25	pacity to operate a community development fi-

1	nancial institution that will not be dependent
2	upon assistance from the Fund for continued vi-
3	ability;
4	(B) an analysis of the needs of the invest-
5	ment area or targeted population and a strategy
6	for how the applicant will attempt to meet those
7	needs;
8	(C) a plan to coordinate use of assistance
9	from the Fund with existing Federal, State,
10	local, and tribal government assistance pro-
11	grams, and private sector financial services;
12	(D) an explanation of how the proposed ac-
13	tivities of the applicant are consistent with exist-
14	ing economic, community, and housing develop-
15	ment plans adopted by or applicable to an in-
16	vestment area; and
17	(E) a description of how the applicant will
18	coordinate with community organizations and
19	financial institutions which will provide equity
20	investments, loans, secondary markets, or other
21	services to investment areas or targeted popu-
22	lations;
23	(3) to include a detailed description of the appli-
24	cant's plans and likely sources of funds to match the
25	amount of assistance requested from the Fund;

1	(4) in the case of an applicant that has pre-
2	viously received assistance under this subtitle, to dem-
3	onstrate that the applicant—
4	(A) has substantially met its performance
5	goals and otherwise carried out its responsibil-
6	ities under this subtitle and the assistance agree-
7	ment; and
8	(B) will expand its operations into a new
9	investment area or to serve a new targeted popu-
10	lation, offer more services, or increase the volume
11	of its business;
12	(5) in the case of an applicant with a prior his-
13	tory of serving investment areas or targeted popu-
14	lations, to demonstrate that the applicant—
15	(A) has a record of success in serving in-
16	vestment areas or targeted populations;
17	(B) will expand its operations into a new
18	investment area or to serve a new targeted popu-
19	lation, offer more services, or increase the volume
20	of its current business; and
21	(6) to include such other information as the
22	Fund deems appropriate.
23	(c) Exception.—
24	(1) In GENERAL.—Notwithstanding subsection
25	(b)(1), in the case of a State in which there is no ex-

1	isting community development financial institution
2	in operation on the date of enactment of this Act, an
3	applicant may be an agency or instrumentality of a
4	State government if—
5	(A) such an entity has a primary mission
6	of promoting community development;
7	(B) any assistance received is used to estab-
8	lish a community development financial institu-
9	tion;
10	(C) there is no nongovernment entity within
11	the State that possesses the capacity to become a
12	community development financial institution;
13	(D) no other agency or instrumentality of
14	the same State has received assistance; and
15	(E) assistance received will not reduce the
16	amount of State funds that otherwise would be
17	appropriated to such an entity.
18	(2) Majority ownership.—An agency or in-
19	strumentality eligible to apply pursuant to para-
20	graph (1) may own a majority of the voting stock of
21	a community development financial institution if it
22	demonstrates that there is a lack of nonpublic sources
23	of capital available to establish a community develop-
24	ment financial institution.

1 (3) Amount of assistance.—No State agency 2 or instrumentality and a community development financial institution, a majority of the shares of which 3 are owned by such an agency or instrumentality pursuant to this subsection, may cumulatively receive as-5 sistance exceeding the amount set forth under section 6 7 108(d)(1). 8 (d) Preapplication Outreach Program.—The Fund may operate an outreach program to identify and provide information to potential applicants. SEC. 106. COMMUNITY PARTNERSHIPS. (a) APPLICATION.—An application for assistance may 12 be filed jointly by a community development financial institution and a community partner to carry out a commu-15 nity partnership. (b) Application Requirements.—The Fund shall 16 require a community partnership application— 17 18 (1) to meet the minimum requirements estab-19 lished for community development financial institu-20 tions under section 105(b), except that the criteria specified in paragraphs (1) and (2)(A) of section 21 22 105(b) shall not apply to the community partner; (2) to describe how each coapplicant will partici-23 24 pate in carrying out the community partnership and

- 1 how the partnership will enhance activities serving
- 2 the investment area or targeted population; and
- 3 (3) to demonstrate that the community partner-
- 4 ship activities are consistent with the strategic plan
- 5 submitted by the community development financial
- 6 institution coapplicant.
- 7 (c) Selection Criteria.—The Fund shall consider a
- 8 community partnership application based on the selection
- 9 criteria set out in section 107.
- 10 (d) Limitation on Distribution of Assistance.—
- 11 Assistance provided upon approval of an application under
- 12 this section shall be distributed only to the community de-
- 13 velopment financial institution coapplicant, and shall not
- 14 be used to fund any activities carried out directly by the
- 15 community partner or an affiliate thereof.
- 16 (e) Other Requirements and Limitations.—All
- 17 other requirements and limitations imposed by this subtitle
- 18 on a community development financial institution assisted
- 19 under this subtitle shall apply (in the manner that the
- 20 Fund determines to be appropriate) to assistance provided
- 21 to carry out community partnerships. The Fund may estab-
- 22 lish additional guidelines and restrictions on the use of Fed-
- 23 eral funds to carry out community partnerships.

### 1 SEC. 107. SELECTION OF INSTITUTIONS.

2	(a) Selection Criteria.—Except as provided in sec-
3	tion 115, the Fund shall, in its sole discretion, select appli-
4	cants for assistance based on—
5	(1) the likelihood of success of the applicant in
6	meeting the goals of its comprehensive strategic plan,
7	(2) the experience and background of the pro-
8	posed management team;
9	(3) the extent of need for equity investments,
10	loans, and development services within the investment
11	areas or targeted populations;
12	(4) the extent of economic distress within the in-
13	vestment areas or the extent of need within the tar-
14	geted populations, as those factors are measured by
15	objective criteria;
16	(5) the extent to which the applicant will con-
17	centrate its activities on serving its investment areas
18	or targeted populations;
19	(6) the amount of firm commitments to meet or
20	exceed the matching requirements and the likely suc-
21	cess of the plan for raising the balance of the match,
22	(7) the extent to which the proposed activities
23	will expand economic opportunities within the invest-
24	ment areas or the targeted populations;

1	(8) whether the applicant is, or will become, an
2	insured depository institution or an insured credit
3	union;
4	(9) whether the applicant is, or will be, lo-
5	cated—
6	(A) in an empowerment zone or enterprise
7	community designated under section 1391 of the
8	Internal Revenue Code of 1986;
9	(B) on an Indian reservation, as defined in
10	section 3(d) of the Indian Financing Act of 1974
11	or section 4(10) of the Indian Child Welfare Act
12	of 1978; or
13	(C) in a community that has experienced a
14	sudden and significant loss in total employment
15	since the 1990 census or a major dislocation in
16	its primary employment base.
17	(10) the extent to which the applicant will in-
18	crease its resources through coordination with other
19	institutions or participation in a secondary market;
20	(11) in the case of an applicant with a prior his-
21	tory of serving investment areas or targeted popu-
22	lations, the extent of success in serving them; and
23	(12) other factors (such as the extent to which the
24	applicant has strong ties to the community that it
25	will serve) deemed to be appropriate by the Fund.

1	(b) Geographic Diversity.—The Fund shall assist
2	a geographically diverse group of applicants, including an
3	appropriate mix of applicants from urban, rural, and Na-
4	tive American communities.
5	SEC. 108. ASSISTANCE PROVIDED BY THE FUND.
6	(a) Forms of Assistance.—
7	(1) In General.—The Fund may provide—
8	(A) financial assistance through equity in-
9	vestments, deposits, credit union shares, loans,
10	and grants; and
11	(B) technical assistance—
12	(i) directly;
13	(ii) through grants; or
14	(iii) by contracting with organizations
15	that possess expertise in community devel-
16	opment, without regard to whether the orga-
17	nizations receive or are eligible to receive
18	assistance under this subtitle.
19	(2) Equity investments.—The Fund shall not
20	own more than 50 percent of the equity of a commu-
21	nity development financial institution and may not
22	control the operations of such institution. The Fund
23	may hold only transferable, nonvoting equity invest-
24	ments. Such equity investments may provide for con-
25	vertibility to voting stock upon transfer by the Fund.

1	(3) Deposits.—Deposits made pursuant to this
2	section in an insured community development finan-
3	cial institution shall not be subject to any require-
4	ment for collateral or security.
5	(4) Limitations on obligations.—Direct loan
6	obligations may be incurred by the Fund only to the
7	extent that appropriations of budget authority to
8	cover their costs, as defined in section 502 of the Con-
9	gressional Budget Act of 1974, are made in advance.
10	(b) Uses of Financial Assistance.—
11	(1) In general.—Financial assistance made
12	available under this subtitle may be used by assisted
13	institutions to serve investment areas or targeted pop-
14	ulations by developing or supporting—
15	(A) commercial facilities that promote revi-
16	talization, community stability, or job creation
17	or retention;
18	(B) businesses that—
19	(i) provide jobs for low-income people
20	or are owned by low-income people; or
21	(ii) enhance the availability of prod-
22	ucts and services to low-income people;
23	(C) community facilities;
24	(D) the provision of basic financial services;

- 1 (E) housing that is principally affordable to 2 low-income people, except that assistance used to facilitate homeownership opportunities shall only 3 be used for activities and lending products that 4 serve low-income people and are not provided by 5 6 other lenders in the area; and (F) other businesses and activities deemed 7 appropriate by the Fund. 8 9 (2) Limitations.—No assistance made available under this subtitle may be expended by a community 10 development financial institution (or an organization 11 receiving assistance under section 115) to pay any 12 person to influence or attempt to influence any agen-13 cy, elected official, officer, or employee of a State or 14 local government in connection with the making, 15 award, extension, continuation, renewal, amendment, 16 17 or modification of any State or local government con-18 tract, grant, loan, or cooperative agreement (as such 19 terms are defined in section 1352 of title 31. United
- 21 (c) Uses of Technical Assistance.—Technical as-22 sistance may be used for activities that enhance the capac-23 ity of a community development financial institution, such 24 as training of management and other personnel and devel-25 opment of programs and investment or loan products

States Code).

(d) Amount of Assistance.—

- 2 (1) IN GENERAL.—The Fund may provide not 3 more than \$5,000,000 of assistance, in the aggregate, 4 during any 3-year period to any 1 community devel-5 opment financial institution and its affiliates.
  - (2) Exception.—Notwithstanding the limitations in paragraph (1), in the case of an existing community development financial institution that proposes to serve an investment area or targeted population outside of any State and outside of any metropolitan area presently served by the institution, the Fund may provide not more than \$7,500,000 of assistance to a community development financial institution and its affiliates, in the aggregate, during any 3-year period, of which not less than \$2,500,000 shall be used to establish affiliates to serve the new investment area or targeted population.
    - (3) Timing of Assistance may be provided as described in paragraphs (1) and (2) in a lump sum or over a period of time, as determined by the Fund.

### 22 (e) MATCHING REQUIREMENTS.—

(1) In General.—Assistance other than technical assistance shall be matched with funds from sources other than the Federal Government on the

1	basis of not less than one dollar for each dollar pro-
2	vided by the Fund. Such matching funds shall be at
3	least comparable in form and value to assistance pro-
4	vided by the Fund. The Fund shall provide no assist-
5	ance (other than technical assistance) until a commu-
6	nity development financial institution has secured
7	firm commitments for the matching funds required.
8	(2) Exception.—In the case of an applicant
9	with severe constraints on available sources of match-
10	ing funds, the Fund may permit an applicant to
11	comply with the matching requirements of paragraph
12	(1) by—
13	(A) reducing such matching requirement by
14	50 percent;
15	(B) permitting such applicant to satisfy not
16	more than 60 percent of the matching require-
17	ment through use of assistance made available
18	pursuant to—
19	(i) section 106 of the Housing and
20	Community Development Act of 1974;
21	(ii) section 623(c)(1) of the Commu-
22	nity Economic Development Act of 1981; or
23	(iii) section 310B(c) of the Consoli-
24	dated Farm and Rural Development Act; or

1	(C) permitting an applicant to provide
2	matching funds in a form to be determined at
3	the discretion of the Fund if such applicant—
4	(i) has total assets of less than
5	\$100,000;
6	(ii) serves nonmetropolitan areas; and
7	(iii) is not requesting more than
8	\$25,000 in assistance.
9	(3) Limitation.—Not more than 25 percent of
10	the total funds disbursed in any fiscal year by the
11	Fund may be matched as authorized under paragraph
12	(2).
13	(4) Construction of "federal funds".—For
14	purposes of this subsection, notwithstanding section
15	105(a)(9) of the Housing and Community Develop-
16	ment Act of 1974, funds provided pursuant to such
17	Act shall be considered to be Federal funds, except as
18	provided in paragraph (2)(B).
19	(f) Terms and Conditions.—
20	(1) Soundness of unregulated institu-
21	TIONS.—The Fund shall—
22	(A) ensure, to the maximum extent prac-
23	ticable, that each community development finan-
24	cial institution (other than an insured commu-
25	nity development financial institution or deposi-

1	tory institution holding company) assisted under
2	this subtitle is financially and managerially
3	sound and maintains appropriate internal con-
4	trols; and
5	(B) require such institution to submit, not
6	less than once during each 18-month period, a
7	statement of financial condition audited by an
8	independent certified public accountant as part
9	of the report required by section 112(a)(4).
10	(2) Consultation with the appropriate
11	BANKING REGULATOR.—Prior to providing assistance
12	to an insured community development financial insti-
13	tution, the Fund shall consult with the appropriate
14	Federal banking agency.
15	(3) Assistance agreement.—
16	(A) In general.—Before providing any as-
17	sistance under this subtitle, the Fund and each
18	community development financial institution to
19	be assisted shall enter into an agreement that re-
20	quires the institution to comply with perform-
21	ance goals and abide by other terms and condi-
22	tions pertinent to assistance received under this
23	subtitle.
24	(B) Performance Goals.—Performance
25	goals shall be negotiated between the Fund and

1	each community development financial institu-
2	tion receiving assistance based upon the strategic
3	plan submitted pursuant to section 105(b)(2).
4	Such goals may be modified with the consent of
5	the parties, or as provided in subparagraph (C).
6	Performance goals for insured community devel-
7	opment financial institutions shall be determined
8	in consultation with the appropriate Federal
9	banking agency.
10	(C) Sanctions.—The agreement shall pro-
11	vide that, in the event of fraud, mismanagement,
12	noncompliance with this subtitle, or noncompli-
13	ance with the terms of the agreement, the Fund,
14	in its discretion, may—
15	(i) revoke approval of the application;
16	(ii) terminate or reduce future assist-
17	ance;
18	(iii) require repayment of assistance;
19	(iv) require changes to the performance
20	goals imposed pursuant to subparagraph
21	(B);
22	(v) bar an applicant from reapplying
23	for assistance from the Fund;

1	(vi) require changes to the strategic
2	plan submitted pursuant to section
3	105(b)(2); and
4	(vii) take such other actions as the
5	Fund deems appropriate.
6	(D) Insured community development
7	FINANCIAL INSTITUTIONS.—In the case of an in-
8	sured community development financial institu-
9	tion, the Fund shall notify the appropriate Fed-
10	eral banking agency not less than 15 days before
11	imposing sanctions pursuant to this paragraph
12	and shall not impose such sanctions if the agen-
13	cy disapproves, with an explanation in writing,
14	during that 15-day period.
15	(E) Native american institutions.—In
16	the case of a community development financial
17	institution which serves an investment area de-
18	scribed in paragraph (11)(C) of section 103, or
19	an Indian tribe, as defined in section 4 of the
20	Indian Self-Determination and Education As-
21	sistance Act, the Fund shall consult with the ap-
22	plicable tribal government in evaluating the in-
23	stitution's compliance with the performance
24	goals established pursuant to subparagraph (B).

- 1 (g) Authority To Sell Equity Investments and
- 2 Loans.—The Fund may, at any time, sell its equity invest-
- 3 ments and loans, but the Fund shall retain the power to
- 4 enforce limitations on assistance entered into in accordance
- 5 with the requirements of this subtitle until the performance
- 6 goals related to the investment or loan have been met.
- 7 (h) No Authority To Limit Supervision and Reg-
- 8 ULATION.—Nothing in this subtitle shall affect any author-
- 9 ity of the appropriate Federal banking agency to supervise
- 10 and regulate any institution or company.

### 11 SEC. 109. COMMUNITY DEVELOPMENT TRAINING.

- 12 (a) In General.—The Fund may operate a training
- 13 program to increase the capacity and expertise of commu-
- 14 nity development financial institutions and other members
- 15 of the financial services industry to undertake community
- 16 development activities (hereafter in this subtitle referred to
- 17 as the "training program").
- 18 (b) Program Activities.—The training program
- 19 shall provide educational programs to assist community de-
- 20 velopment financial institutions and other members of the
- 21 financial services industry in developing lending and in-
- 22 vestment products, underwriting and servicing loans, man-
- 23 aging equity investments, and implementing development
- 24 services targeted to areas of economic distress, low-income

- 1 persons, and persons who lack adequate access to loans and
- 2 equity investments.
- 3 (c) Participation.—The training program shall be
- 4 made available to community development financial insti-
- 5 tutions and other members of the financial services industry
- 6 that serve or seek to serve areas of economic distress, low-
- 7 income persons, and persons who lack adequate access to
- 8 loans and equity investments.
- 9 (d) Contracting.—The Fund may offer the training
- 10 described in this section directly or through a contract with
- 11 other organizations. The Fund may contract to provide the
- 12 training with organizations that possess special expertise
- 13 in community development, without regard to whether the
- 14 organizations receive or are eligible to receive assistance
- 15 under this subtitle.
- 16 (e) FEES.—The Fund, as it deems appropriate, may
- 17 charge fees for participation in training services to offset
- 18 the cost of providing the services.

#### 19 SEC. 110. ENCOURAGEMENT OF PRIVATE ENTITIES.

- 20 The Fund may facilitate the organization of corpora-
- 21 tions in which the Federal Government has no ownership
- 22 interest that will complement the activities of the Fund in
- 23 carrying out the purpose of this subtitle. The purpose of
- 24 any such entity shall be to assist community development
- 25 financial institutions in a manner that is complementary

to the activities of the Fund under this subtitle. Any such entity shall be managed exclusively by persons not employed by the Federal Government or any agency or instrumentality thereof. 4 SEC. 111. CLEARINGHOUSE FUNCTION. (a) Establishment.—The Fund may establish and 6 maintain an information clearinghouse in coordination with other Federal departments or agencies and community 8 development financial institutions to— (1) collect, compile, and analyze information 10 pertinent to community development financial insti-11 tutions that will assist in creating, developing, ex-12 panding, and preserving these institutions; and 13 (2) provide information on financial, technical, 14 15 and management assistance, data on the activities of community development financial institutions, regu-16 17 lations, and other information that may promote the 18 purposes of this subtitle. 19 (b) Costs.—The cost of maintaining the clearinghouse shall be shared equally by the Fund and each department or agency involved in maintaining the clearinghouse. 21 22 SEC. 112. RECORDKEEPING, REPORTS, AND AUDITS. 23 (a) Recordkeeping.— (1) In General.—A community development fi-24

nancial institution receiving assistance from the

- Fund shall keep such records, for such periods as may
  be prescribed, as may be necessary to disclose the
  manner in which any assistance under this subtitle is
  used and to demonstrate compliance with the requirements of this subtitle.
  - (2) User profile information.—The Fund shall require each community development financial institution receiving assistance under this subtitle to compile and maintain data on the gender, race, ethnicity, national origin, and other pertinent information concerning individuals that utilize the services of the assisted institution to ensure that targeted populations and low-income residents of investment areas are adequately served.
    - (3) Access to records.—The Fund shall have access on demand, for the purpose of determining compliance with this subtitle, to any records of a community development financial institution that receives assistance from the Fund.
    - (4) Review.—Not less than annually, the Fund shall review the progress of each assisted community development financial institution in carrying out its strategic plan, meeting its performance goals, and satisfying the terms and conditions of its assistance agreement.

## 1 (5) Reporting.—

(A) Annual reports.—The Fund shall require each community development financial institution receiving assistance under this subtitle to submit an annual report to the Fund on its activities, its financial condition, and its success in meeting performance goals, in satisfying the terms and conditions of its assistance agreement, and in complying with other requirements of this subtitle in such form and manner as the Fund shall specify.

- (B) AVAILABILITY OF REPORTS.—The Fund, after deleting or redacting any material, as appropriate to protect privacy or proprietary interests, shall make such reports available for public inspection.
- (b) Annual Report by the Fund.—The Fund shall conduct an annual evaluation of the activities carried out by the Fund and the community development financial institutions assisted pursuant to this subtitle, and shall submit a report of its findings to the President and the Congress not later than 120 days after the end of each fiscal year of the Fund. The report shall include financial statements audited in accordance with subsection (d).
- *(c) STUDIES.*—

(1) Optional studies.—The Fund may con-1 2 duct such studies as the Fund determines necessary to 3 further the purpose of this subtitle and to facilitate investment in distressed communities. The findings of 5 any studies conducted pursuant to this paragraph shall be included in the report required by subsection 6 7 (b). 8 (2) Native american Lending Study.— 9 (A) STUDY.—The Fund shall conduct a study on lending and investment practices on 10 Indian reservations and other land held in trust 11 by the United States Government. Such study 12 shall— 13 14 (i) identify barriers to private financ-15 ing on such lands; and (ii) identify the impact of such bar-16 17 riers on access to capital and credit for Na-18 tive American populations. 19 (B) Consultation with private sec-TOR.—In conducting the study under subpara-20 graph (A), the Fund shall consult with tribal 21 22 governments, private citizens, and organizations that possess expertise in lending and community 23 development issues confronted by Native Amer-24 ican populations. 25

1	(C) REPORT.—Not later than 18 months
2	after the date of enactment of this Act, the Fund
3	shall submit a report to the President and the
4	Congress that—
5	(i) contains the findings of the study
6	conducted under subparagraph (A);
7	(ii) recommends any necessary statu-
8	tory and regulatory changes to existing Fed-
9	eral programs; and
10	(iii) makes policy recommendations for
11	community development financial institu-
12	tions, insured depository institutions, sec-
13	ondary market institutions, and other pri-
14	vate sector capital institutions to better
15	serve such populations.
16	(3) Investment, governance, and role of
17	FUND.—Thirty months after the appointment and
18	qualification of the Administrator, the Comptroller
19	General shall submit to the President and the Con-
20	gress a study evaluating the structure, governance,
21	and performance of the Fund.
22	(d) Examination and Audit.—The financial state-
23	ments of the Fund shall be audited in accordance with sec-
24	tion 9105 of title 31, United States Code, except that audits

- 1 required by section 9105(a) of such title shall be performed
- 2 annually.

### 3 SEC. 113. INVESTMENT OF RECEIPTS AND PROCEEDS.

- 4 (a) Establishment of Account.—Any dividends on
- 5 equity investments and proceeds from the disposition of in-
- 6 vestments, deposits, or credit union shares that are received
- 7 by the Fund as a result of assistance provided pursuant
- 8 to section 108, and any fees received pursuant to section
- 9 109(e) shall be deposited and accredited to an account of
- 10 the Fund in the United States Treasury (hereafter in this
- 11 section referred to as "the account") established to carry
- 12 out the purpose of this subtitle.
- 13 (b) Investments.—Upon request of the Adminis-
- 14 trator, the Secretary of the Treasury shall invest amounts
- 15 deposited in the account in public debt securities with ma-
- 16 turities suitable to the needs of the Fund, as determined
- 17 by the Administrator, and bearing interest at rates deter-
- 18 mined by the Secretary of the Treasury, comparable to cur-
- 19 rent market yields on outstanding marketable obligations
- 20 of the United States of similar maturities.
- 21 (c) AVAILABILITY.—Amounts deposited into the ac-
- 22 count and interest earned on such amounts pursuant to this
- 23 section shall be available to the Fund until expended.

1	SEC. 114. INSPECTOR GENERAL.
2	(a) Establishment.—Section 11 of the Inspector
3	General Act of 1978 (5 U.S.C. App. 11) is amended—
4	(1) in paragraph (1), by inserting "; the Admin-
5	istrator of the Community Development Financial In-
6	stitutions Fund;" before "and the chief"; and
7	(2) in paragraph (2), by inserting "the Commu-
8	nity Development Financial Institutions Fund," after
9	"the Agency for International Development,".
10	(b) AUTHORIZATION OF APPROPRIATIONS.—There are
11	authorized to be appropriated such sums as may be nec-
12	essary for the operation of the Office of Inspector General
13	established by the amendments made by subsection (a).
14	SEC. 115. CAPITALIZATION ASSISTANCE TO ENHANCE LI-
15	QUIDITY.
16	(a) Assistance.—
17	(1) In General.—The Fund may provide assist-
18	ance for the purpose of providing capital to organiza-
19	tions that will purchase loans or otherwise enhance
20	the liquidity of community development financial in-
21	stitutions if—
22	(A) the primary purpose of such organiza-
23	tions is to promote community development; and

(B) any assistance received is matched with

funds—

24

1	(i) from sources other than the Federal
2	Government;
3	(ii) on the basis of not less than \$1 for
4	each dollar provided by the Fund; and
5	(iii) that are comparable in form and
6	value to the assistance provided by the
7	Fund.
8	(2) Limitation on other assistance.—An or-
9	ganization that receives assistance under this section
10	may not receive other financial or technical assistance
11	under this subtitle.
12	(b) Selection.—The selection of organizations to re-
13	ceive assistance under this section shall be at the discretion
14	of the Fund and in accordance with criteria established by
15	the Fund. In establishing such criteria, the Fund shall take
16	into account the criteria contained in sections 105(b) and
17	107, as appropriate.
18	(c) Amount of Assistance.—The Fund may provide
19	a total of not more than \$5,000,000 of assistance to an orga-
20	nization under this section during any 3-year period. As-
21	sistance may be provided in a lump sum or over a period
22	of time, as determined by the Fund.
23	(d) Audit and Report Requirements.—

1	(1) In General.—Organizations that receive as-
2	sistance from the Fund in accordance with this sec-
3	tion shall—
4	(A) submit to the Fund not less than once
5	in every 18-month period, financial statements
6	audited by an independent certified public ac-
7	countant;
8	(B) submit an annual report on its activi-
9	ties; and
10	(C) keep such records as may be necessary
11	to disclose the manner in which any assistance
12	under this section is used.
13	(2) Access.—The Fund shall have access on de-
14	mand, for the purposes of determining compliance
15	with this section, to any records of such organiza-
16	tions.
17	(e) Limitations on Liability.—
18	(1) Liability of fund.—The liability of the
19	Fund and the United States Government arising out
20	of the provision of assistance to any organization in
21	accordance with this section shall be limited to the
22	amount of such assistance. The Fund shall be exempt
23	from any assessments and any other liabilities that
24	may be imposed on controlling or principal share-

- holders by any Federal law or the law of any State,
   territory, or the District of Columbia.
- (2) Liability of government.—This section 3 does not oblige the Federal Government, either directly or indirectly, to provide any funds to any orga-5 nization assisted pursuant to this section, or to honor, 6 7 reimburse, or otherwise guarantee any obligation or liability of such an organization. This section shall 8 not be construed to imply that any such organization 9 or any obligations or securities of any such organiza-10 tion are backed by the full faith and credit of the 11
- 13 (f) USE OF PROCEEDS.—Any proceeds from the sale 14 of loans to an organization assisted under this section shall
- 15 be used by the seller for community development purposes.
- 16 SEC. 116. COMMUNITY DEVELOPMENT REVOLVING LOAN
  17 FUND FOR CREDIT UNIONS.
- 18 (a) Repeal.—Section 120 of the Federal Credit Union
- 19 Act (12 U.S.C. 1766) is amended by striking subsection (k).
- 20 (b) REVOLVING LOAN FUND.—The Federal Credit
- 21 Union Act (12 U.S.C. 1751 et seq.) is amended by inserting
- 22 after section 129 the following new section:

United States.

#### 1 "SEC. 130. COMMUNITY DEVELOPMENT REVOLVING LOAN

- 2 **FUND FOR CREDIT UNIONS.**
- 3 "(a) In General.—The Board may exercise the au-
- 4 thority granted to it by the Community Development Credit
- 5 Union Revolving Loan Fund Transfer Act, including any
- 6 additional appropriation made or earnings accrued, subject
- 7 only to this section and to regulations prescribed by the
- 8 Board.
- 9 "(b) Investment.—The Board may invest any idle
- 10 Fund moneys in United States Treasury securities. Any in-
- 11 terest accrued on such securities shall become a part of the
- 12 *Fund.*
- 13 "(c) Loans.—The Board may require that any loans
- 14 made from the Fund be matched by increased shares in the
- 15 borrower credit union.
- 16 "(d) Interest.—Interest earned by the Fund may be
- 17 allocated by the Board for technical assistance to commu-
- 18 nity development credit unions, subject to an appropria-
- 19 tions Act.
- 20 "(e) Definition.—As used in this section, the term
- 21 'Fund' means the Community Development Credit Union
- 22 Revolving Loan Fund.".
- 23 SEC. 117. REGULATIONS.
- Not later than 180 days after the appointment and
- 25 qualification of the Administrator, the Fund shall issue

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such regulations as may be necessary to carry out this sub-
 2
    title.
    SEC. 118. AUTHORIZATION OF APPROPRIATIONS.
 4
         (a) In General.—To carry out this subtitle, there are
    authorized to be appropriated to the Fund, to remain avail-
    able until expended—
 6
 7
              (1) $60,000,000 for fiscal year 1994;
             (2) $104,000,000 for fiscal year 1995;
 8
             (3) $107,000,000 for fiscal year 1996; and
 9
             (4) $111,000,000 for fiscal year 1997.
10
         (b) Administrative Expenses.—Of amounts author-
11
    ized to be appropriated to the Fund—
12
             (1) not more than $5,500,000 may be used by the
13
        Fund in each fiscal year to pay the administrative
14
15
         costs and expenses of the Fund; and
              (2) not more than $50,000 may be used by the
16
17
        Fund in each fiscal year to provide for administra-
        tive costs and expenses described in section 104(d)(8).
18
19
         (c) Community Development Credit Union Re-
20
    VOLVING LOAN FUND.—There are authorized to be appro-
    priated for the purposes of the Community Development
21
22
    Credit Union Revolving Loan Fund—
23
             (1) $2,000,000 for fiscal year 1994;
             (2) $1,000,000 for fiscal year 1995;
24
             (3) $1,000,000 for fiscal year 1996; and
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1	(4) \$1,000,000 for fiscal year 1997.
2	(d) Capitalization Assistance.—Not more than 5
3	percent of the amounts authorized to be appropriated under
4	subsection (a) may be used as provided in section 115.
5	(e) Budgetary Treatment.—Amounts authorized to
6	be appropriated under this section shall be subject to discre-
7	tionary spending caps, as provided in section 601 of the
8	Congressional Budget Act of 1974, and therefore shall re-
9	duce by an equal amount funds made available for other
10	discretionary spending programs.
11	Subtitle B—Home Ownership and
12	Equity Protection
13	SEC. 151. CONSUMER PROTECTIONS FOR HIGH COST MORT-
14	GAGES.
15	(a) Definition.—Section 103 of the Truth in Lending
16	Act (15 U.S.C. 1602) is amended by adding at the end the
<ul><li>16</li><li>17</li></ul>	Act (15 U.S.C. 1602) is amended by adding at the end the following new subsection:
	·
17	following new subsection:
17 18	following new subsection:  "(aa)(1) A mortgage referred to in this subsection
17 18 19	following new subsection:  "(aa)(1) A mortgage referred to in this subsection  means a consumer credit transaction that is secured by the
17 18 19 20	following new subsection:  "(aa)(1) A mortgage referred to in this subsection  means a consumer credit transaction that is secured by the  consumer's principal dwelling, other than a residential
17 18 19 20 21	following new subsection:  "(aa)(1) A mortgage referred to in this subsection means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a
17 18 19 20 21 22	following new subsection:  "(aa)(1) A mortgage referred to in this subsection means a consumer credit transaction that is secured by the consumer's principal dwelling, other than a residential mortgage transaction, a reverse mortgage transaction, or a transaction under an open end credit plan, if—

1	curities having comparable periods of maturity on the
2	fifteenth day of the month immediately preceding the
3	month in which the loan is consummated; or
4	"(B) the total points and fees payable by the
5	consumer at or before closing will exceed the greater
6	of—
7	"(i) 8 percent of the total loan amount; or
8	''(ii) \$400.
9	"(2) The amount specified in paragraph (1)(B)(ii)
10	shall be adjusted annually on January 1 by the annual per-
11	centage change in the Consumer Price Index, as reported
12	on June 1 of the year preceding such adjustment.
13	"(3) For purposes of paragraph (1)(B), points and fees
14	shall include—
15	"(A) all items included in the finance charge ex-
16	cept interest and the time-price differential;
17	"(B) all compensation paid to mortgage brokers;
18	"(C) each of the charges listed in section 106(e)
19	(except an escrow for future payment of taxes), un-
20	less—
21	"(i) the charge is reasonable;
22	"(ii) the creditor receives no direct or indi-
23	rect compensation; and
24	"(iii) the charge is paid to a third party
25	unaffiliated with the creditor; and

1	"(D) such other charges as the Board determines
2	to be appropriate.''.
3	(b) Material Disclosures.—Section 103(u) of the
4	Truth in Lending Act (15 U.S.C. 1602(u)) is amended—
5	(1) by striking "and the due dates" and insert-
6	ing "the due dates"; and
7	(2) by inserting before the period ", and the dis-
8	closures required by section 129(a)".
9	(c) Definition of Creditor Clarified.—Section
10	103(f) of the Truth in Lending Act (15 U.S.C. 1602(f)) is
11	amended by adding at the end the following: "Any person
12	who originates 2 or more mortgages referred to in subsection
13	(aa) in any 12-month period or any person who originates
14	1 or more such mortgages through a mortgage broker shall
15	be considered to be a creditor for purposes of this title.".
16	(d) Disclosures Required and Certain Terms
17	PROHIBITED.—The Truth in Lending Act (15 U.S.C. 1601
18	et seq.) is amended by inserting after section 128 the follow-
19	ing new section:
20	"SEC. 129. REQUIREMENTS FOR CERTAIN MORTGAGES.
21	"(a) Disclosures.—
22	"(1) Specific disclosures.—In addition to
23	other disclosures required under this title, for each
24	mortgage referred to in section 103(aa), the creditor

1	shall provide the following disclosures in conspicuous
2	type size:
3	"(A) 'You are not required to complete this
4	agreement merely because you have received these
5	disclosures or have signed a loan application.'
6	"(B) 'If you obtain this loan, the lender will
7	have a mortgage on your home. You could lose
8	your home, and any money you have put into it,
9	if you do not meet your obligations under the
10	loan.'.
11	"(2) Annual percentage rate.—In addition
12	to the disclosures required under paragraph (1), the
13	creditor shall disclose—
14	"(A) the annual percentage rate of the loan
15	and the amount of the regular monthly payment;
16	or
17	"(B) in the case of a variable rate loan, the
18	annual percentage rate of the loan, a statement
19	that the interest rate and monthly payment may
20	increase, and the amount of the maximum pos-
21	sible monthly payment.
22	"(b) Time of Disclosures.—
23	"(1) In general.—The disclosures required by
24	this section shall be given not less than 3 business
25	days prior to consummation of the transaction.

1 "(2) NEW DISCLOSURES REQUIRED.—After pro-2 viding the disclosures required by this section, a cred-3 itor may not change the terms of the loan if such 4 changes make the disclosures inaccurate, unless new 5 disclosures are provided that meet the requirements of 6 this section.

"(3) Modifications.—The Board may, if it finds that such action is necessary to permit homeowners to meet bona fide personal financial emergencies, prescribe regulations authorizing the modification or waiver of rights created under this subsection, to the extent and under the circumstances set forth in those regulations.

## "(c) No Prepayment Penalty.—

"(1) IN GENERAL.—Except as provided in paragraph (4), a mortgage referred to in section 103(aa) may not contain terms under which a consumer must pay a prepayment penalty for paying all or part of the principal of the loan prior to the date on which such principal is due. If the date of maturity of a mortgage referred to in section 103(aa) is accelerated for any reason, and the consumer is entitled to a rebate of interest, computation of the rebate amount shall comply with paragraph (2). No such mortgage shall provide for a default interest rate that is higher

- than the interest rate provided by the note for theloan prior to default.
- "(2) Rebate computation.—For purposes of this subsection, any method of computing rebates of interest that is less favorable to the consumer than the actuarial method (as defined in section 933 of the Housing and Community Development Act of 1992) using simple interest is a prepayment penalty.
- 9 "(3) EXCEPTION.—A mortgage referred to in sec-10 tion 103(aa) may include terms under which a 11 consumer is required to pay not more than 1 month's 12 interest as a penalty if the consumer prepays the 13 principal of the loan within 1 year of origination.
- "(d) No Balloon Payments.—A mortgage referred to in section 103(aa) having a term of less than 5 years may not include terms under which the aggregate amount of the regular periodic payments would not fully amortize the outstanding principal balance.
- "(e) No Negative Amortization.—A mortgage referred to in section 103(aa) may not include terms under which the outstanding principal balance will increase at any time over the course of the loan because the regular periodic payments do not cover the full amount of interest due.

1	"(f) No Prepaid Payments.—A mortgage referred to
2	in section 103(aa) may not include terms under which more
3	than 2 periodic payments required under the loan are con-
4	solidated and paid in advance from the loan proceeds pro-
5	vided to the consumer.
6	"(g) Consequence of Failure To Comply.—Any
7	mortgage that contains a provision prohibited by this sec-
8	tion shall be deemed a failure to deliver the material disclo-
9	sures required under this title, for the purpose of section
10	125.
11	"(h) Definition.—For purposes of this section, the
12	term 'affiliate' has the same meaning as in section 2(k) of
13	the Bank Holding Company Act of 1956.
14	"(i) Discretionary Regulatory Authority of
15	Board.—
16	"(1) Exemptions.—The Board may, by regula-
17	tion or order, exempt specific mortgage products or
18	categories of mortgages from any or all of the prohibi-
19	tions specified in subsections (c) through (f), if the
20	Board finds that the exemption—
21	"(A) is in the interest of the borrowing pub-
22	lic; and
23	"(B) will apply only to products that main-
24	tain and strengthen home ownership and equity
25	protection.

1	"(2) Prohibitions.—The Board, by regulation
2	or order, shall prohibit acts or practices in connection
3	with—
4	"(A) mortgage loans that the Board finds to
5	be unfair, deceptive, or designed to evade the
6	provisions of this section; and
7	"(B) refinancing of mortgage loans that the
8	Board finds to be associated with abusive lend-
9	ing practices, or that are otherwise not in the in-
10	terest of the borrower.".
11	(e) Conforming Amendments.—
12	(1) Table of sections.—The table of sections
13	at the beginning of chapter 2 of the Truth in Lending
14	Act is amended by striking the item relating to sec-
15	tion 129 and inserting the following:
	"129. Requirements for certain mortgages.".
16	(2) Truth in Lending Act.—Section 105(a) of
17	the Truth in Lending Act (15 U.S.C. 1604(a)) is
18	amended in the second sentence, by striking "These"
19	and inserting "Except in the case of a mortgage re-
20	ferred to in section 103(aa), these".
21	SEC. 152. CIVIL LIABILITY.
22	(a) Damages.—Section 130(a) of the Truth in Lend-
23	ing Act (15 U.S.C. 1640(a)) is amended—
24	(1) by striking ''and'' at the end of paragraph
25	(2)(B);

1	(2) by striking the period at the end of para-
2	graph (3) and inserting "; and"; and
3	(3) by inserting after paragraph (3) the follow-
4	ing new paragraph:
5	"(4) in the case of a failure to comply with any
6	requirement under section 129, an amount equal to
7	the sum of all finance charges and fees paid by the
8	consumer, unless the creditor demonstrates that the
9	failure to comply is not material.".
10	(b) State Attorney General Enforcement.—Sec-
11	tion 130(e) of the Truth in Lending Act (15 U.S.C. 1640(e))
12	is amended by adding at the end the following: "An action
13	to enforce a violation of section 129 may also be brought
14	by the appropriate State attorney general in any appro-
15	priate United States district court, or any other court of
16	competent jurisdiction, not later than 3 years after the date
17	on which the violation occurs. The State attorney general
18	shall provide prior written notice of any such civil action
19	to the Federal agency responsible for enforcement under sec-
20	tion 108 and shall provide the agency with a copy of the
21	complaint. If prior notice is not feasible, the State attorney
22	general shall provide notice to such agency immediately
23	upon instituting the action. The Federal agency may—
24	"(1) intervene in the action;
25	"(2) upon intervening—

1	"(A) remove the action to the appropriate
2	United States district court, if it was not origi-
3	nally brought there; and
4	"(B) be heard on all matters arising in the
5	action; and
6	"(3) file a petition for appeal.".
7	(c) Assignee Liability.—Section 131 of the Truth in
8	Lending Act (15 U.S.C. 1641) is amended by adding at
9	the end the following new subsection:
10	"(d) Rights Upon Assignment of Certain Mort-
11	GAGES.—
12	"(1) In general.—Any person who purchases
13	or is otherwise assigned a mortgage referred to in sec-
14	tion 103(aa) shall be subject to all claims and de-
15	fenses with respect to that mortgage that the consumer
16	could assert against the creditor of the mortgage, un-
17	less the purchaser or assignee demonstrates, by a pre-
18	ponderance of the evidence, that a reasonable person
19	exercising ordinary due diligence, could not deter-
20	mine, based on the loan documentation required by
21	this title, that the mortgage was in fact a mortgage
22	referred to in section 103(aa). The preceding sentence
23	does not affect a consumer's rights under sections 125,
24	130, or any other provision of this title.

1	"(2) Limitation on damages.—Notwithstand-
2	ing any other provision of law, relief provided as a
3	result of any action made permissible by paragraph
4	(1) may not exceed—
5	"(A) with respect to actions based upon a
6	violation of this title, the amount specified in
7	section 130; and
8	"(B) with respect to all other causes of ac-
9	tion, the sum of—
10	"(i) the amount of all remaining in-
11	debtedness; and
12	"(ii) the total amount paid by the
13	consumer in connection with the trans-
14	action.
15	"(3) Offset.—The amount of damages that
16	may be awarded under paragraph (2)(B) shall be re-
17	duced by the amount of any damages awarded under
18	paragraph (2)(A).
19	"(4) Notice.—Any person who sells or otherwise
20	assigns a mortgage referred to in section 103(aa) shall
21	include a prominent notice of the potential liability
22	under this subsection as determined by the Board.".

## 1 SEC. 153. REVERSE MORTGAGE DISCLOSURE.

2	(a) Definition of Reverse Mortgage.—Section
3	103 of the Truth in Lending Act (15 U.S.C. 1602) is
4	amended by adding at the end the following new subsection:
5	"(bb) The term 'reverse mortgage transaction' means
6	a nonrecourse transaction in which a mortgage, deed of
7	trust, or equivalent consensual security interest is created
8	against the consumer's principal dwelling—
9	"(1) securing one or more advances; and
10	"(2) with respect to which the payment of any
11	principal, interest, and shared appreciation is due
12	and payable (other than in the case of default) only
13	after—
14	"(A) the transfer of the dwelling;
15	"(B) the consumer ceases to occupy the
16	dwelling as a principal dwelling; or
17	"(C) the death of the consumer.".
18	(b) Disclosure.—Chapter 2 of title I of the Truth
19	in Lending Act (15 U.S.C. 1631 et seq.) is amended by add-
20	ing at the end the following new section:
21	"SEC. 138. REVERSE MORTGAGES.
22	"(a) In General.—In addition to the disclosures re-
23	quired under this title, for each reverse mortgage, the credi-
24	tor shall, not less than 3 days prior to consummation of
25	the transaction, disclose to the consumer in conspicuous
26	type a good faith estimate of the projected total cost of the

mortgage to the consumer expressed as a table of annual interest rates. Each annual interest rate shall be based on a projected total future loan balance under a projected appreciation rate for the dwelling and a term for the mortgage. The disclosure shall include— "(1) statements of the annual interest rates for 6 not less than 3 projected appreciation rates and not 7 8 less than 3 loan periods, as determined by the Board, including— 9 10 "(A) a short-term reverse mortgage; "(B) a term equaling the actuarial life ex-11 pectancy of the consumer; and 12 "(C) such longer term as the Board deems 13 14 appropriate; and "(2) a statement that the consumer is not obli-15 gated to complete the reverse mortgage transaction 16 17 merely because the consumer has received the disclo-18 sure required under this section or has signed a loan 19 application. "(b) Projected Total Cost.—In determining the 20 projected total cost of the mortgage to be disclosed to the consumer under subsection (a), the creditor shall take into 23 account— "(1) any shared appreciation that the lender 24 will, by contract, be entitled to receive; 25

- 1 "(2) all costs and charges to the consumer, in-2 cluding the costs of any associated annuity that the 3 consumer elects or is required to purchase as part of 4 the reverse mortgage transaction;
- "(3) all payments to and for the benefit of the 5 consumer, including, in the case in which an associ-6 7 ated annuity is purchased (whether or not required by the lender as a condition of making the reverse 8 9 mortgage), the annuity payments received by the consumer and financed from the proceeds of the loan, 10 11 instead of the proceeds used to finance the annuity; 12 and
- 13 "(4) any limitation on the liability of the 14 consumer under reverse mortgage transactions (such 15 as nonrecourse limits and equity conservation agree-16 ments)."
- 17 (c) Table of Sections.—The table of sections at the
- 18 beginning of chapter 2 of the Truth in Lending Act is
- 19 amended by inserting after the item relating to section 137
- 20 the following:

"138. Reverse mortgages.".

#### 21 SEC. 154. REGULATIONS: EFFECTIVE DATE.

- 22 (a) REGULATIONS.—Not later than 180 days after the
- 23 date of enactment of this Act, the Board of Governors of
- 24 the Federal Reserve System shall issue such regulations as
- 25 may be necessary to carry out this subtitle.

1	(b) Effective Date.—This subtitle, and the amend-
2	ments made by this subtitle, shall apply to every mortgage
3	referred to in section 103(aa) of the Truth in Lending Act
4	(as added by section 151(a) of this Act) consummated on
5	or after the date which is 60 days after the promulgation
6	of final regulations under subsection (a).
7	TITLE II—SMALL BUSINESS
8	CAPITAL FORMATION
9	Subtitle A—Small Business Loan
10	Securitization
11	SEC. 201. SHORT TITLE.
12	This subtitle may be cited as the "Small Business
13	Loan Securitization and Secondary Market Enhancement
14	Act of 1994".
15	SEC. 202. SMALL BUSINESS RELATED SECURITY.
16	Section 3(a) of the Securities Exchange Act of 1934
17	(15 U.S.C. 78c(a)) is amended by adding at the end the
18	following new paragraph:
19	"(53)(A) The term 'small business related secu-
20	rity' means a security that is rated in 1 of the 4 high-
21	est rating categories by at least 1 nationally recog-
22	nized statistical rating organization, and either—
23	"(i) represents an interest in 1 or more
24	promissory notes or leases of personal property
25	evidencing the obligation of a small business con-

cern and originated by an insured depository institution, insured credit union, insurance company, or similar institution which is supervised
and examined by a Federal or State authority,
or a finance company or leasing company; or

"(ii) is secured by an interest in 1 or more
promissory notes or leases of personal property
(with or without recourse to the issuer or lessee)

(with or without recourse to the issuer or lessee)
 and provides for payments of principal in relation to payments, or reasonable projections of

11 payments, on notes or leases described in clause

12 *(i)*.

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# "(B) For purposes of this paragraph—

"(i) an 'interest in a promissory note or a lease of personal property' includes ownership rights, certificates of interest or participation in such notes or leases, and rights designed to assure servicing of such notes or leases, or the receipt or timely receipt of amounts payable under such notes or leases;

"(ii) the term 'small business concern' has the same meaning as in section 3 of the Small Business Act:

1	"(iii) the term 'insured depository institu-
2	tion' has the same meaning as in section 3 of the
3	Federal Deposit Insurance Act; and
4	"(iv) the term 'insured credit union' has the
5	same meaning as in section 101 of the Federal
6	Credit Union Act.".
7	SEC. 203. APPLICABILITY OF MARGIN REQUIREMENTS.
8	Section 7(g) of the Securities Exchange Act of 1934
9	(15 U.S.C. 78g(g)) is amended by inserting "or a small
10	business related security" after "mortgage related security".
11	SEC. 204. BORROWING IN THE COURSE OF BUSINESS.
12	Section 8(a) of the Securities Exchange Act of 1934
13	(15 U.S.C. 78h(a)) is amended in the last sentence by in-
14	serting "or a small business related security" after "mort-
15	gage related security".
16	SEC. 205. SMALL BUSINESS RELATED SECURITIES AS COL-
17	LATERAL.
18	Clause (ii) of section $11(d)(1)$ of the Securities Ex-
19	change Act of 1934 (15 U.S.C. 78k(d)(1)) is amended by
20	inserting "or any small business related security" after
21	"mortgage related security".
22	SEC. 206. INVESTMENT BY DEPOSITORY INSTITUTIONS.
23	(a) Home Owners' Loan Act Amendment.—Section
24	5(c)(1) of the Home Owners' Loan Act (12 ILSC)

1	1464(c)(1)) is amended by adding at the end the following
2	new subparagraph:
3	"(S) Small business related securi-
4	TIES.—Investments in small business related se-
5	curities (as defined in section 3(a)(53) of the Se-
6	curities Exchange Act of 1934), subject to such
7	regulations as the Director may prescribe, in-
8	cluding regulations concerning the minimum
9	size of the issue (at the time of the initial dis-
10	tribution), the minimum aggregate sales price,
11	or both.''.
12	(b) Credit Unions.—Section 107(15) of the Federal
13	Credit Union Act (12 U.S.C. 1757(15)) is amended—
<ul><li>13</li><li>14</li></ul>	Credit Union Act (12 U.S.C. 1757(15)) is amended—  (1) in subparagraph (A), by striking "or" at the
14	(1) in subparagraph (A), by striking "or" at the
14 15	(1) in subparagraph (A), by striking "or" at the end;
<ul><li>14</li><li>15</li><li>16</li></ul>	(1) in subparagraph (A), by striking "or" at the end;  (2) in subparagraph (B), by inserting "or" at
14 15 16 17	(1) in subparagraph (A), by striking "or" at the end;  (2) in subparagraph (B), by inserting "or" at the end; and
14 15 16 17 18	(1) in subparagraph (A), by striking "or" at the end;  (2) in subparagraph (B), by inserting "or" at the end; and  (3) by adding at the end the following new sub-
14 15 16 17 18	(1) in subparagraph (A), by striking "or" at the end;  (2) in subparagraph (B), by inserting "or" at the end; and  (3) by adding at the end the following new subparagraph:
14 15 16 17 18 19 20	(1) in subparagraph (A), by striking "or" at the end;  (2) in subparagraph (B), by inserting "or" at the end; and  (3) by adding at the end the following new subparagraph:  "(C) are small business related securities
14 15 16 17 18 19 20 21	(1) in subparagraph (A), by striking "or" at the end;  (2) in subparagraph (B), by inserting "or" at the end; and  (3) by adding at the end the following new subparagraph:  "(C) are small business related securities  (as defined in section 3(a)(53) of the Securities

1	issue (at the time of the initial distribution), the
2	minimum aggregate sales price, or both;''.
3	(c) National Banking Associations.—Section 5136
4	of the Revised Statutes (12 U.S.C. 24) is amended in the
5	last sentence in the first full paragraph of paragraph Sev-
6	enth, by striking "or (B) are mortgage related securities"
7	and inserting the following: "(B) are small business related
8	securities (as defined in section 3(a)(53) of the Securities
9	Exchange Act of 1934); or (C) are mortgage related securi-
10	ties".
11	SEC. 207. PREEMPTION OF STATE LAW.
12	(a) In General.—Section 106(a)(1) of the Secondary
13	Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-
14	1(a)(1)) is amended—
15	(1) by striking "or" at the end of subparagraph
16	(B);
17	(2) by redesignating subparagraph (C) as sub-
18	paragraph (D); and
19	(3) by inserting after subparagraph (B) the fol-
20	lowing new subparagraph:
21	"(C) small business related securities (as de-
22	fined in section $3(a)(53)$ of the Securities Ex-
23	change Act of 1934), or''.

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(b) Obligations of the United States.—Section
 1
    106(a)(2) of the Secondary Mortgage Market Enhancement
    Act of 1984 (15 U.S.C. 77r-1(a)(2)) is amended—
             (1) by striking "or" at the end of subparagraph
 4
 5
         (B);
             (2) by redesignating subparagraph (C) as sub-
 6
 7
        paragraph (D); and
             (3) by inserting after subparagraph (B) the fol-
 8
        lowing new subparagraph:
 9
                  "(C) small business related securities (as de-
10
             fined in section 3(a)(53) of the Securities Ex-
11
             change Act of 1934), or".
12
         (c) Preemption of State Laws.—Section 106(c) of
13
    the Secondary Mortgage Market Enhancement Act of 1984
14
    (15 U.S.C. 77r-1(c)) is amended—
15
             (1) in the first sentence, by striking "or that"
16
17
        and inserting ", that"; and
18
             (2) by inserting ", or that are small business re-
        lated securities (as defined in section 3(a)(53) of the
19
        Securities Exchange Act of 1934)" before "shall be ex-
20
        empt".
21
         (d) Implementation.—Section 106 of the Secondary
22
23
    Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-
    1) is amended by adding at the end the following new sub-
   section:
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"(d) Implementation.—

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"(1) Limitation.—The provisions of subsections (a) and (b) concerning small business related securities shall not apply with respect to a particular person, trust, corporation, partnership, association, business trust, or business entity or class thereof in any State that, prior to the expiration of 7 years after the date of enactment of this subsection, enacts a statute that specifically refers to this section and either prohibits or provides for a more limited authority to purchase, hold, or invest in such small business related securities by any person, trust, corporation, partnership, association, business trust, or business entity or class thereof than is provided in this section. The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest that was made prior to such enactment, and shall not require the sale or other disposition of any small business related securities acquired prior to the date of such enactment.

"(2) State registration or qualification requirements.—Any State may, not later than 7 years after the date of enactment of this subsection, enact a statute that specifically refers to this section

1	and requires registration or qualification of any
2	small business related securities on terms that differ
3	from those applicable to any obligation issued by the
4	United States.".
5	SEC. 208. INSURED DEPOSITORY INSTITUTION CAPITAL RE-
6	QUIREMENTS FOR TRANSFERS OF SMALL
7	BUSINESS OBLIGATIONS.
8	(a) Accounting Principles.—The accounting prin-
9	ciples applicable to the transfer of a small business loan
10	or a lease of personal property with recourse contained in
11	reports or statements required to be filed with Federal bank-
12	ing agencies by a qualified insured depository institution
13	shall be consistent with generally accepted accounting prin-
14	ciples.
15	(b) Capital and Reserve Requirements.—With
16	respect to the transfer of a small business loan or lease of
17	personal property with recourse that is a sale under gen-
18	erally accepted accounting principles, each qualified in-
19	sured depository institution shall—
20	(1) establish and maintain a reserve equal to an
21	amount sufficient to meet the reasonable estimated li-
22	ability of the institution under the recourse arrange-
23	ment; and
24	(2) include, for purposes of applicable capital
25	standards and other capital measures, only the

amount of the retained recourse in the risk-weighted 1 2 assets of the institution. 3 (c) Qualified Institutions Criteria.—An insured depository institution is a qualified insured depository institution for purposes of this section if, without regard to the accounting principles or capital requirements referred to in subsections (a) and (b), the institution is— (1) well capitalized; or 8 (2) with the approval, by regulation or order, of 9 the appropriate Federal banking agency, adequately 10 capitalized. 11 (d) AGGREGATE AMOUNT OF RECOURSE.—The total 12 outstanding amount of recourse retained by a qualified insured depository institution with respect to transfers of 14 small business loans and leases of personal property under subsections (a) and (b) shall not exceed— 17 (1) 15 percent of the risk-based capital of the in-18 stitution: or 19 (2) such greater amount, as established by the 20 appropriate Federal banking agency by regulation or 21 order. 22 (e) Institutions That Cease To Be Qualified or Exceed Aggregate Limits.—If an insured depository institution ceases to be a qualified insured depository institution or exceeds the limits under subsection (d), this section

- 1 shall remain applicable to any transfers of small business
- 2 loans or leases of personal property that occurred during
- 3 the time that the institution was qualified and did not ex-
- 4 ceed such limit.
- 5 (f) Prompt Corrective Action Not Affected.—
- 6 The capital of an insured depository institution shall be
- 7 computed without regard to this section in determining
- 8 whether the institution is adequately capitalized,
- 9 undercapitalized, significantly undercapitalized, or criti-
- 10 cally undercapitalized under section 38 of the Federal De-
- 11 posit Insurance Act.
- 12 (g) Regulations Required.—Not later than 180
- 13 days after the date of the enactment of this Act each appro-
- 14 priate Federal banking agency shall promulgate final regu-
- 15 lations implementing this section.
- 16 (h) ALTERNATIVE SYSTEM PERMITTED.—
- 17 (1) In General.—At the discretion of the appro-
- priate Federal banking agency, this section shall not
- 19 apply if the regulations of the agency provide that the
- 20 aggregate amount of capital and reserves required
- 21 with respect to the transfer of small business loans
- and leases of personal property with recourse does not
- 23 exceed the aggregate amount of capital and reserves
- 24 that would be required under subsection (b).

1	(2) Existing transactions not affected.—
2	Notwithstanding paragraph (1), this section shall re-
3	main in effect with respect to transfers of small busi-
4	ness loans and leases of personal property with re-
5	course by qualified insured depository institutions oc-
6	curring before the effective date of regulations referred
7	to in paragraph (1).
8	(i) Definitions.—For purposes of this section—
9	(1) the term "adequately capitalized" has the
10	same meaning as in section 38(b) of the Federal De-
11	posit Insurance Act;
12	(2) the term "appropriate Federal banking agen-
13	cy" has the same meaning as in section 3 of the Fed-
14	eral Deposit Insurance Act;
15	(3) the term "capital standards" has the same
16	meaning as in section 38(c) of the Federal Deposit
17	Insurance Act;
18	(4) the term "Federal banking agencies" has the
19	same meaning as in section 3 of the Federal Deposit
20	Insurance Act;
21	(5) the term ''insured depository institution'' has
22	the same meaning as in section 3 of the Federal De-
23	posit Insurance Act

1	(6) the term "other capital measures" has the
2	meaning as in section 38(c) of the Federal Deposit
3	Insurance Act;
4	(7) the term ''recourse'' has the meaning given to
5	such term under generally accepted accounting prin-
6	ciples;
7	(8) the term "small business" means a business
8	that meets the criteria for a small business concern es-
9	tablished by the Small Business Administration
10	under section 3(a) of the Small Business Act; and
11	(9) the term ''well capitalized'' has the same
12	meaning as in section 38(b) of the Federal Deposit
13	Insurance Act.
13 14	Insurance Act.  SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED
14	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED
14 15 16	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED  SECURITIES BY EMPLOYEE BENEFIT PLANS.
14 15 16 17	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED  SECURITIES BY EMPLOYEE BENEFIT PLANS.  (a) PROHIBITED TRANSACTION EXEMPTION.—The
14 15 16 17	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED  SECURITIES BY EMPLOYEE BENEFIT PLANS.  (a) PROHIBITED TRANSACTION EXEMPTION.—The  Secretary of Labor, in consultation with the Secretary of
114 115 116 117 118	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED  SECURITIES BY EMPLOYEE BENEFIT PLANS.  (a) PROHIBITED TRANSACTION EXEMPTION.—The  Secretary of Labor, in consultation with the Secretary of the Treasury, may exempt transactions involving small
14 15 16 17 18 19 20	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED  SECURITIES BY EMPLOYEE BENEFIT PLANS.  (a) PROHIBITED TRANSACTION EXEMPTION.—The  Secretary of Labor, in consultation with the Secretary of the Treasury, may exempt transactions involving small business related securities (as defined in section 3(a)(53)
114 115 116 117 118 119 220 221	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED  SECURITIES BY EMPLOYEE BENEFIT PLANS.  (a) PROHIBITED TRANSACTION EXEMPTION.—The  Secretary of Labor, in consultation with the Secretary of the Treasury, may exempt transactions involving small business related securities (as defined in section 3(a)(53) of the Securities Exchange Act of 1934, as added by section
114 115 116 117 118 119 220 221	SEC. 209. TRANSACTIONS IN SMALL BUSINESS RELATED  SECURITIES BY EMPLOYEE BENEFIT PLANS.  (a) PROHIBITED TRANSACTION EXEMPTION.—The  Secretary of Labor, in consultation with the Secretary of the Treasury, may exempt transactions involving small business related securities (as defined in section 3(a)(53)) of the Securities Exchange Act of 1934, as added by section 202 of this Act) pursuant to section 408(a) of the Employee

1	(b) Consideration of Exemption Requests.—The
2	Secretary of Labor shall consider any request for exemption
3	under subsection (a) within a reasonable period of time
4	after receipt of such request.
5	SEC. 210. SENSE OF THE SENATE ON TAXATION OF SMALL
6	BUSINESS LOAN INVESTMENT CONDUITS.
7	(a) Sense of the Senate.—It is the sense of the Sen-
8	ate that the taxation of a small business loan investment
9	conduit and the holder of an interest therein should be simi-
10	lar to the taxation of a real estate mortgage investment con-
11	duit and the holder of an interest therein under the Internal
12	Revenue Code of 1986, taking into account, as appro-
13	priate—
14	(1) the purpose of facilitating the securitization
15	of small business loans and leases or personal prop-
16	erty through the use of small business loan investment
17	conduits and the development of a secondary market
18	in small business loans and leases of personal prop-
19	erty;
20	(2) differences in the nature of qualifying mort-
21	gages in a real estate mortgage investment conduit
22	and small business loans and leases of personal prop-
23	erty;
24	(3) differences in the practices of participants in
25	the securitization of real estate mortgages in a real es-

1	tate mortgage investment conduit and the
2	securitization of other assets; and
3	(4) such other tax policies as may be warranted.
4	(b) Small Business Loan Investment Conduit
5	Defined.—For purposes of this section, the term "small
6	business loan investment conduit" means an entity substan-
7	tially all of the assets of which consist of an interest in
8	one or more promissory notes as leases of personal property
9	evidencing obligations—
10	(1) of a business that meets the criteria of a
11	small business concern established under section 3(a)
12	of the Small Business Act; and
13	(2) that were originated by an insured deposi-
14	tory institution (as defined in section 3 of the Federal
15	Deposit Insurance Act), credit union, insurance com-
16	pany, or similar institution which is supervised and
17	examined by a Federal or State authority, or a fi-
18	nance company or leasing company.
19	Subtitle B—Small Business Capital
20	<b>Enhancement</b>
21	SEC. 251. FINDINGS AND PURPOSES.
22	(a) Findings.—The Congress finds that—
23	(1) small business concerns are a vital part of
24	the economy, accounting for the majority of new jobs,

new products, and new services created in the United 1 2 States: (2) adequate access to debt capital is a critical 3 component for small business development, productivity, expansion, and success in the United States; 5 (3) commercial banks are the most important 6 7 suppliers of debt capital to small business concerns in the United States: 8 (4) commercial banks and other depository insti-9 10 tutions have various incentives to minimize their risk in financing small business concerns; 11 (5) as a result of such incentives, many small 12 business concerns with economically sound financing 13 14 needs are unable to obtain access to needed debt capital: 15 16 (6) the small business capital access programs 17 implemented by certain States are a flexible and effi-18 cient tool to assist financial institutions in providing 19 access to needed debt capital for many small business 20 concerns in a manner consistent with safety and soundness regulations; 21 22 (7) a small business capital access program would complement other programs which assist small 23

business concerns in obtaining access to capital; and

1	(8) Federal policy can stimulate and accelerate
2	efforts by States to implement small business capital
3	access programs by providing an incentive to States,
4	while leaving the administration of such programs to
5	each participating State.
6	(b) Purposes.—By encouraging States to implement
7	administratively efficient capital access programs that en-
8	courage commercial banks and other depository institutions
9	to provide access to debt capital for a broad portfolio of
10	small business concerns, and thereby promote a more effi-
11	cient and effective debt market, the purposes of this subtitle
12	are—
13	(1) to promote economic opportunity and
14	growth;
15	(2) to create jobs;
16	(3) to promote economic efficiency;
17	(4) to enhance productivity; and
18	(5) to spur innovation.
19	SEC. 252. DEFINITIONS.
20	For purposes of this subtitle—
21	(1) the term "Secretary" means the Secretary of
22	Housing and Urban Development;
23	(2) the term "appropriate Federal banking agen-
24	cy''—

1	(A) has the same meaning as in section 3	
2	of the Federal Deposit Insurance Act; and	
3	(B) includes the National Credit Union Ad-	
4	ministration Board in the case of any credit	
5	union the deposits of which are insured in ac-	
6	cordance with the Federal Credit Union Act;	
7	(3) the term "early loan" means a loan enrolled	
8	at a time when the aggregate covered amount of loans	
9	previously enrolled under the Program by a particu-	
10	lar participating financial institution is less than	
11	\$5,000,000;	
12	(4) the term "enrolled loan" means a loan made	
13	by a participating financial institution that is en-	
14	rolled by a participating State in accordance with	
15	this subtitle;	
16	(5) the term ''financial institution'' means any	
17	federally chartered or State-chartered commercial	
18	bank, savings association, savings bank, or credit	
19	union;	
20	(6) the term ''participating financial institu-	
21	tion'' means any financial institution that has en-	
22	tered into a participation agreement with a partici-	
23	nating State in accordance with section 254	

1	(7) the term "participating State" means any
2	State that has been approved for participation in the
3	Program in accordance with section 253;
4	(8) the term "passive real estate ownership"
5	means ownership of real estate for the purpose of de-
6	riving income from speculation, trade, or rental, ex-
7	cept that such term shall not include—
8	(A) the ownership of that portion of real es-
9	tate being used or intended to be used for the op-
10	eration of the business of the owner of the real
11	estate (other than the business of passive owner-
12	ship of real estate); or
13	(B) the ownership of real estate for the pur-
14	pose of construction or renovation, until the com-
15	pletion of the construction or renovation phase;
16	(9) the term "Program" means the Small Busi-
17	ness Capital Enhancement Program established under
18	this subtitle;
19	(10) the term "reserve fund" means a fund, es-
20	tablished by a participating State, earmarked for a
21	particular participating financial institution, for the
22	purposes of—
23	(A) depositing all required premium
24	charges paid by the participating financial in-
25	stitution and by each borrower receiving a loan

1	under the Program from a participating finan-
2	cial institution;
3	(B) depositing contributions made by the
4	participating State; and
5	(C) covering losses on enrolled loans by dis-
6	bursing accumulated funds; and
7	(11) the term "State" means—
8	(A) a State of the United States;
9	(B) the District of Columbia;
10	(C) any political subdivision of a State of
11	the United States, which subdivision has a popu-
12	lation in excess of the population of the least
13	populated State of the United States; and
14	(D) any other political subdivision of a
15	State of the United States that the Secretary de-
16	termines has the capacity to participate in the
17	program.
18	SEC. 253. APPROVING STATES FOR PARTICIPATION.
19	(a) Application.—Any State may apply to the Sec-
20	retary for approval to be a participating State under the
21	Program and to be eligible for reimbursement by the
22	Secretary pursuant to section 257.
23	(b) Approval Criteria.—The Secretary shall ap-
24	prove a State to be a participating State, if—

- (1) a specific department or agency of the State
   has been designated to implement the Program;
  - (2) all legal actions necessary to enable such designated department or agency to implement the Program have been accomplished;
  - (3) funds in the amount of at least \$1 for every 2 people residing in the State (as of the last decennial census for which data have been released) are available and have been legally committed to contributions by the State to reserve funds, with such funds being available without time limit and without requiring additional legal action, except that such requirements shall not be construed to limit the authority of the State to take action at a later time that results in the termination of its obligation to enroll loans and make contributions to reserve funds;
  - (4) the State has prescribed a form of participation agreement to be entered into between it and each participating financial institution that is consistent with the requirements and purposes of this subtitle; and
  - (5) the State and the Secretary have executed a reimbursement agreement that conforms to the requirements of this subtitle.
- 25 (c) Existing State Programs.—

1	(1) In general.—A State that is not a partici-
2	pating State, but that has its own capital access pro-
3	gram providing portfolio insurance for business loans
4	(based on a separate loss reserve fund for each finan-
5	cial institution), may apply at any time to the Sec-
6	retary to be approved to be a participating State. The
7	Secretary shall approve such State to be a participat-
8	ing State, and to be eligible for reimbursements by the
9	Secretary pursuant to section 257, if the State—
10	(A) satisfies the requirements of subsections
11	(a) and (b); and
12	(B) certifies that each affected financial in-
13	stitution has satisfied the requirements of section
14	254.
15	(2) Applicable terms of participation.—
16	(A) Status of institutions.—If a State
17	is approved for participation under paragraph
18	(1), each financial institution with a participa-
19	tion agreement in effect with the participating
20	State shall immediately be considered a partici-
21	pating financial institution. Reimbursements
22	may be made under section 237 in connection
23	with all contributions made to the reserve fund
24	by the State in connection with lending that oc-

curs on or after the date on which the Secretary approves the State for participation.

- (B) Effective date of participation.—

  If an amended participation agreement that conforms with section 255 is required in order to secure participation approval by the Secretary, contributions subject to reimbursement under section 257 shall include only those contributions made to a reserve fund with respect to loans enrolled on or after the date that an amended participation agreement between the participating State and the participating financial institution becomes effective.
- (C) Use of accumulated reserve funds.—A State that is approved for participation in accordance with this subsection may continue to implement the program utilizing the reserve funds accumulated under the State program.
- 20 (d) Prior Appropriations Requirement.—The 21 Secretary shall not approve a State for participation in 22 the Program until at least \$50,000,000 has been appro-23 priated to the Secretary (subject to an appropriations Act), 24 without fiscal year limitation, for the purpose of making 25 reimbursements pursuant to section 257.

- 1 (e) Amendments to Agreements.—If a State that
- 2 has been approved to be a participating State wishes to
- 3 amend its form of participation agreement and continue
- 4 to be a participating State, such State shall submit such
- 5 amendment for review by the Secretary in accordance with
- 6 subsection (b)(4). Any such amendment shall become effec-
- 7 tive only after it has been approved by the Secretary.

### 8 SEC. 254. PARTICIPATION AGREEMENTS.

- 9 (a) In General.—A participating State may enter
- 10 into a participation agreement with any financial institu-
- 11 tion determined by the participating State, after consulta-
- 12 tion with the appropriate Federal banking agency, to have
- 13 sufficient commercial lending experience and financial and
- 14 managerial capacity to participate in the Program. The de-
- 15 termination by the State shall not be reviewable by the Sec-
- 16 retary.
- 17 (b) Participating Financial Institutions.—Upon
- 18 entering into the participation agreement with the partici-
- 19 pating State, the financial institution shall become a par-
- 20 ticipating financial institution eligible to enroll loans
- 21 under the Program.

### 22 SEC. 255. TERMS OF PARTICIPATION AGREEMENTS.

- 23 (a) In General.—The participation agreement to be
- 24 entered into by a participating State and a participating
- 25 financial institution shall include all provisions required

- 1 by this section, and shall not include any provisions incon-
- 2 sistent with the provisions of this section.
- 3 (b) Establishment of Separate Reserve
- 4 Funds.—A separate reserve fund shall be established by the
- 5 participating State for each participating financial insti-
- 6 tution. All funds credited to a reserve fund shall be the ex-
- 7 clusive property of the participating State. Each reserve
- 8 fund shall be an administrative account for the purposes
- 9 of—
- 10 (1) receiving all required premium charges to be
- paid by the borrower and participating financial in-
- 12 stitution and contributions by the participating
- 13 State: and
- 14 (2) disbursing funds, either to cover losses sus-
- tained by the participating financial institution in
- 16 connection with loans made under the Program, or as
- 17 contemplated by subsections (d) and (r).
- 18 (c) Investment Authority.—Subject to applicable
- 19 State law, the participating State may invest, or cause to
- 20 be invested, funds held in a reserve fund by establishing
- 21 a deposit account at the participating financial institution
- 22 in the name of the participating State. In the event that
- 23 funds in the reserve fund are not deposited in such an ac-
- 24 count, such funds shall be invested in a form that the par-
- 25 ticipating State determines is safe and liquid.

1	(d) Earned Income and Interest.—Interest or in-
2	come earned on the funds credited to a reserve fund shall
3	be deemed to be part of the reserve fund, except that a par-
4	ticipating State may, as further specified in the participa-
5	tion agreement, provide authority for the participating
6	State to withdraw some or all of such interest or income
7	earned.
8	(e) Loan Terms and Conditions.—
9	(1) In general.—A loan to be filed for enroll-
10	ment under the Program may be made with such in-
11	terest rate, fees, and other terms and conditions as
12	agreed upon by the participating financial institu-
13	tion and the borrower, consistent with applicable law.
14	(2) Lines of credit.—If a loan to be filed for
15	enrollment is in the form of a line of credit, the
16	amount of the loan shall be considered to be the maxi-
17	mum amount that can be drawn by the borrower
18	against the line of credit.
19	(f) Enrollment Process.—
20	(1) Filing.—
21	(A) In GENERAL.—A participating finan-
22	cial institution shall file each loan made under
23	the Program for enrollment by completing and
24	submitting to the participating State a form
25	prescribed by the participating State.

- 1 (B) FORM.—The form referred to in sub2 paragraph (A) shall include a representation by
  3 the participating financial institution that it
  4 has complied with the participation agreement
  5 in enrolling the loan with the State.
  - (C) Premium charges.—Accompanying the completed form shall be the nonrefundable premium charges paid by the borrower and the participating financial institution, or evidence that such premium charges have been deposited into the deposit account containing the reserve fund, if applicable.
  - (D) Submission.—The participation agreement shall require that the items required by this subsection shall be submitted to the participating State by the participating financial institutions not later than 10 calendar days after a loan is made.
  - (2) Enrollment by State.—Upon receipt by the participating State of the filing submitted in accordance with paragraph (1), the participating State shall promptly enroll the loan and make a matching contribution to the reserve fund in accordance with subsection (j), unless the information submitted indicates that the participating financial institution has

- not complied with the participation agreement in enrolling the loan.
- 3 (g) COVERAGE AMOUNT.—In filing a loan for enroll-
- 4 ment under the Program, the participating financial insti-
- 5 tution may specify an amount to be covered under the
- 6 Program that is less than the full amount of the loan.

## 7 (h) Premium Charges.—

- 8 (1) Minimum and maximum amounts.—The premium charges payable to the reserve fund by the 9 10 borrower and the participating financial institution shall be prescribed by the participating financial in-11 12 stitution, within minimum and maximum limits set forth in the participation agreement. The participa-13 tion agreement shall establish minimum and maxi-14 15 mum limits whereby the sum of the premium charges paid in connection with a loan by the borrower and 16 17 the participating financial institution is not less than 18 3 percent nor more than 7 percent of the amount of 19 the loan covered under the Program.
  - (2) Allocation of premium charges.—The participation agreement shall specify terms for allocating premium charges between the borrower and the participating financial institution. However, if the participating financial institution is required to pay any of the premium charges, the participation agree-

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ment shall authorize the participating financial insti-1 2 tution to recover from the borrower the cost of the payment of the participating financial institution, in 3 4 any manner on which the participating financial institution and the borrower agree. 5 6 (i) Restrictions.— 7 (1) ACTIONS PROHIBITED.—Except as provided in subsection (h) and paragraph (2) of this sub-8 9 section, the participating State may not— 10 (A) impose any restrictions or requirements, relating to the interest rate, fees, collateral, or 11 other business terms and conditions of the loan: 12 13 or14 (B) condition enrollment of a loan in the Program on the review by the State of the risk 15 or creditworthiness of a loan. 16 17 (2) Effect on other law.—Nothing in this 18 subtitle shall affect the applicability of any other law 19 to the conduct by a participating financial institu-20 tion of its business. (j) State Contributions.—In enrolling a loan 21 22 under the Program, the participating State shall contribute to the reserve fund an amount, as provided for in the par-23 ticipation agreement, which shall not be less than the sum

of the amount of premium charges paid by the borrower and the participating financial institution. (k) Elements of Claims.— 3 (1) FILING.—If a participating financial institution charges off all or part of an enrolled loan, such 5 participating financial institution may file a claim 6 for reimbursement with the participating State by 7 submitting a form that— 8 (A) includes the representation by the par-9 ticipating financial institution that it is filing 10 the claim in accordance with the terms of the ap-11 plicable participation agreement; and 12 13 (B) contains such other information as may be required by the participating State. 14 (2) Timing.—Any claim filed under paragraph 15 (1) shall be filed contemporaneously with the action 16 17 of the participating financial institution to charge off 18 all or part of an enrolled loan. The participating fi-19 nancial institution shall determine when and how much to charge off on an enrolled loan, in a manner 20 21 consistent with its usual method for making such de-22 terminations on business loans that are not enrolled loans under this subtitle. 23 (1) Elements of Claims.—A claim filed by a partici-24 pating financial institution may include the amount of

- 1 principal charged off, not to exceed the covered amount of
  2 the loan. Such claim may also include accrued interest and
  3 out-of-pocket expenses, if and to the extent provided for
  4 under the participation agreement.
  5 (m) Payment of Claims.—
  6 (1) In General.—Except as provided in sub7 section (n) and paragraph (2) of this subsection, upon
  - section (n) and paragraph (2) of this subsection, upon receipt of a claim filed in accordance with this section and the participation agreement, the participating State shall promptly pay to the participating financial institution, from funds in the reserve fund, the full amount of the claim as submitted.
    - (2) Insufficient reserve fund to cover the entire amount of a claim of a participating financial institution, the participating State shall pay to the participating financial institution an amount equal to the current balance in the reserve fund. If the enrolled loan for which the claim has been filed—
      - (A) is not an early loan, such payment shall be deemed fully to satisfy the claim, and the participating financial institution shall have no other or further right to receive any amount from the reserve fund with respect to such claim;

25 or

- (B) is an early loan, such payment shall 1 2 not be deemed fully to satisfy the claim of the participating financial institution, and at such 3 4 time as the remaining balance of the claim does not exceed 75 percent of the balance in the re-5 6 serve fund, the participating State shall, upon 7 the request of the participating financial institution, pay any remaining amount of the claim. 8
- 9 (n) Denial of Claims.—A participating State may 10 deny a claim if a representation or warranty made by the 11 participating financial institution to the participating 12 State at the time that the loan was filed for enrollment or 13 at the time that the claim was submitted was known by 14 the participating financial institution to be false.
- (o) Subsequent Recovery of Claim Amount.—If, subsequent to payment of a claim by the participating Thate, a participating financial institution recovers from a borrower any amount for which payment of the claim was made, the participating financial institution shall promptly pay to the participating State for deposit into the reserve fund the amount recovered, less any expenses incurred by the institution in collection of such amount.
- 23 (p) Participation Agreement Terms.—

1	(1) In general.—In connection with the filing
2	of a loan for enrollment in the Program, the partici-
3	pation agreement—
4	(A) shall require the participating financial
5	institution to obtain an assurance from each bor-
6	rower that—
7	(i) the proceeds of the loan will be used
8	for a business purpose;
9	(ii) the loan will not be used to finance
10	passive real estate ownership; and
11	(iii) the borrower is not—
12	(I) an executive officer, director,
13	or principal shareholder of the partici-
14	pating financial institution;
15	(II) a member of the immediate
16	family of an executive officer, director,
17	or principal shareholder of the partici-
18	pating financial institution; or
19	(III) a related interest of any
20	such executive officer, director, prin-
21	cipal shareholder, or member of the im-
22	mediate family;
23	(B) shall require the participating financial
24	institution to provide assurances to the partici-
25	pating State that the loan has not been made in

1	order to place under the protection of the Pro-
2	gram prior debt that is not covered under the
3	Program and that is or was owed by the bor-
4	rower to the participating financial institution
5	or to an affiliate of the participating financial
6	institution;
7	(C) may provide that if—
8	(i) a participating financial institu-
9	tion makes a loan to a borrower that is a
10	refinancing of a loan previously made to
11	the borrower by the participating financial
12	institution or an affiliate of the participat-
13	ing financial institution;
14	(ii) such prior loan was not enrolled in
15	the Program; and
16	(iii) additional or new financing is ex-
17	tended by the participating financial insti-
18	tution as part of the refinancing,
19	the participating financial institution may file
20	the loan for enrollment, with the amount to be
21	covered under the Program not to exceed the
22	amount of any additional or new financing; and
23	(D) may include additional restrictions on
24	the eligibility of loans or borrowers that are not

- inconsistent with the provisions and purposes of
   this subtitle.
- 3 (2) DEFINITIONS.—For purposes of this sub-4 section, the terms "executive officer", "director", 5 "principal shareholder", "immediate family", and 6 "related interest" refer to the same relationship to a 7 participating financial institution as the relationship 8 described in part 215 of title 12 of the Code of Fed-9 eral Regulations, or any successor to such part.
- 10 (q) Termination Clause.—In each participation 11 agreement, the participating State shall reserve for itself the 12 ability to terminate its obligation to enroll loans under the 13 Program. Any such termination shall be prospective only, 14 and shall not apply to amounts of loans enrolled under the 15 Program prior to such termination.

# (r) Allowable Withdrawals From Fund.—

17 The participation agreement may provide that, 18 if, for any consecutive period of not less than 24 19 months, the aggregate outstanding balance of all en-20 rolled loans for a participating financial institution is continually less than the outstanding balance in 21 22 the reserve fund for that participating financial institution, the participating State, in its discretion, may 23 withdraw an amount from the reserve fund to bring 24

the balance in the reserve fund down to the outstand-1 ing balance of all such enrolled loans. 2 (s) Grandfathered Provision.— 3 (1)Special *TREATMENT* 0F **PREMIUM** CHARGES.—Notwithstanding subsection (b) or (d), the 5 participation agreement, if explicitly authorized by a 6 statute enacted by the State before the date of enact-7 ment of this Act, may allow a participating financial 8 institution to treat the premium charges paid by the 9 participating financial institution and the borrower 10 11 into the reserve fund, and interest or income earned on funds in the reserve fund that are deemed to be at-12 tributable to such premium charges, as assets of the 13 participating financial institution for accounting 14 15 purposes, subject to withdrawal by the participating financial institution only— 16 17 (A) for the payment of claims approved by 18 the participating State in accordance with this 19 section: and (B) upon the participating financial insti-20 21 tution's withdrawal from authority to make new 22 loans under the Program. 23 (2) Payment of Post-Withdrawal claims.— 24 After any withdrawal of assets from the reserve fund 25 pursuant to paragraph (1)(B), any future claims

- filed by the participating financial institution on loans remaining in its capital access program portfolio shall only be paid from funds remaining in the reserve fund to the extent that, in the aggregate, such claims exceed the sum of the amount of such withdrawn assets, and interest on that amount, imputed at the same rate as income would have accrued had the amount not been withdrawn.
- 9 (3) Conditions for terminating special au-THORITY.—If the Secretary determines that the inclu-10 11 sion in a participation agreement of the provisions authorized by this subsection is resulting in the en-12 rollment of loans under the Program that are likely 13 14 to have been made without assistance provided under 15 this subtitle, the Secretary may notify the participating State that henceforth, the Secretary will only 16 17 make reimbursements to the State under section 257 with respect to a loan if the participation agreement 18 19 between the participating State and each participat-20 ing financial institution has been amended to con-21 form with this section, without exercise of the special 22 authority granted by this subsection.

#### 23 **SEC. 256. REPORTS.**

24 (a) Reserve Funds Report.—On or before the last 25 day of each calendar quarter, a participating State shall

1	submit to the Secretary a report of contributions to reserve
2	funds made by the participating State during the previous
3	calendar quarter. If the participating State has made con-
4	tributions to one or more reserve funds during the previous
5	quarter, the report shall—
6	(1) indicate the total amount of such contribu-
7	tions;
8	(2) indicate the amount of contributions which is
9	subject to reimbursement, which shall be equal to the
10	total amount of contributions, unless one of the limi-
11	tations contained in section 257 is applicable;
12	(3) if one of the limitations in section 257 is ap-
13	plicable, provide documentation of the applicability of
14	such limitation for each loan for which the limitation
15	applies; and
16	(4) include a certification by the participating
17	State that—
18	(A) the information provided in accordance
19	with paragraphs (1), (2), and (3) is accurate;
20	(B) funds in an amount meeting the mini-
21	mum requirements of section 253(b)(3) continue
22	to be available and legally committed to con-
23	tributions by the State to reserve funds, less any
24	amount that has been contributed by the State to

1	reserve funds subsequent to the State being ap-
2	proved for participation in the Program;
3	(C) there has been no unapproved amend-
4	ment to any participation agreement or the form
5	of participation agreements; and
6	(D) the participating State is otherwise im-
7	plementing the Program in accordance with this
8	subtitle and regulations issued pursuant to
9	section 259.
10	(b) Annual Data.—Not later than March 31 of each
11	year, each participating State shall submit to the Secretary
12	annual data indicating the number of borrowers financed
13	under the Program, the total amount of covered loans, and
14	breakdowns by industry type, loan size, annual sales, and
15	number of employees of the borrowers financed.
16	(c) FORM.—The reports and data filed pursuant to
17	subsections (a) and (b) shall be in such form as the Sec-
18	retary may require.
19	SEC. 257. REIMBURSEMENT BY THE SECRETARY.
20	(a) Reimbursements.—Not later than 30 calendar
21	days after receiving a report filed in compliance with sec-
22	tion 256, the Secretary shall reimburse the participating
23	State in an amount equal to 50 percent of the amount of
24	contributions by the participating State to the reserve funds
25	that are subject to reimbursement by the Secretary pursuant

- 1 to section 256 and this section. The Secretary shall reim-
- 2 burse participating States, as it receives reports pursuant
- 3 to section 256(a), until available funds are expended.
- 4 (b) Size of Assisted Borrower.—The Secretary
- 5 shall not provide any reimbursement to a participating
- 6 State with respect to an enrolled loan made to a borrower
- 7 that has 500 or more employees at the time that the loan
- 8 is enrolled in the Program.
- 9 (c) Three-Year Maximum.—The amount of reim-
- 10 bursement to be provided by the Secretary to a participat-
- 11 ing State over any 3-year period in connection with loans
- 12 made to any single borrower or any group of borrowers
- 13 among which a common enterprise exists shall not exceed
- 14 \$75,000. For purposes of this subsection, "common enter-
- 15 prise" shall have the same meaning as in part 32 of title
- 16 12 of the Code of Federal Regulations, or any successor to
- 17 that part.
- 18 (d) Loans Totaling Less Than \$2,000,000.—In
- 19 connection with a loan in which the covered amount of the
- 20 loan plus the covered amount of all previous loans enrolled
- 21 by a participating financial institution does not exceed
- 22 \$2,000,000, the amount of reimbursement by the Secretary
- 23 to the participating State shall not exceed the lesser of—

1	(1) 75 percent of the sum of the premium charges
2	paid to the reserve fund by the borrower and the par-
3	ticipating financial institution; or
4	(2) 5.25 percent of the covered amount of the
5	loan.
6	(e) Loans Totaling More Than \$2,000,000.—In
7	connection with a loan in which the sum of the covered
8	amounts of all previous loans enrolled by the participating
9	financial institution in the Program equals or exceeds
10	\$2,000,000, the amount of reimbursement to be provided by
11	the Secretary to the participating State shall not exceed the
12	lesser of—
13	(1) 50 percent of the sum of the premium charges
14	paid by the borrower and the participating financial
15	institution; or
16	(2) 3.5 percent of the covered amount of the loan.
17	(f) Other Amounts.—In connection with the enroll-
18	ment of a loan that will cause the aggregate covered amount
19	of all enrolled loans to exceed \$2,000,000, the amount of
20	reimbursement by the Secretary to the participating State
21	shall be determined—
22	(1) by applying subsection (d) to the portion of
23	the loan, which when added to the aggregate covered
24	amount of all previously enrolled loans equals
25	\$2,000,000; and

1	(2) by applying subsection (e) to the balance of
2	the loan.
3	SEC. 258. REIMBURSEMENT TO THE SECRETARY.
4	(a) In General.—If a participating State withdraws
5	funds from a reserve fund pursuant to terms of the partici-
6	pation agreement permitted by subsection (d) or (r) of sec-
7	tion 255, such participating State shall, not later than 15
8	calendar days after such withdrawal, submit to the Sec-
9	retary an amount computed by multiplying the amount
10	withdrawn by the appropriate factor, as determined under
11	subsection (b).
12	(b) Factor.—The appropriate factor shall be obtained
13	by dividing the total amount of contributions that have been
14	made by the participating State to all reserve funds which
15	were subject to reimbursement—
16	(1) by 2; and
17	(2) by the total amount of contributions made by
18	the participating State to all reserve funds, including
19	if applicable, contributions that have been made by
20	the State prior to becoming a participating State if
21	the State continued its own capital access program in
22	accordance with section 253(b).
23	(c) Use of Reimbursements.—The Secretary may
24	use funds reimbursed pursuant to this section to make reim-
25	bursements under section 257.

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	CEC	250	DECIII	<b>ATIONS</b>

- 2 The Secretary shall promulgate appropriate regula-
- 3 tions to implement this subtitle.
- 4 SEC. 260. AUTHORIZATION OF APPROPRIATIONS.
- 5 (a) Amount.—There are authorized to be appro-
- 6 priated to the Secretary \$50,000,000 to carry out this sub-
- 7 title.
- 8 (b) Budgetary Treatment.—The amount author-
- 9 ized to be appropriated under subsection (a) shall be subject
- 10 to discretionary spending caps, as provided in section 601
- 11 of the Congressional Budget Act of 1974, and therefore shall
- 12 reduce by an equal amount funds made available for other
- 13 discretionary spending programs.
- 14 TITLE III—PAPERWORK REDUC-
- 15 TION AND REGULATORY IM-
- 16 **PROVEMENT**
- 17 SEC. 301. INCORPORATED DEFINITIONS.
- 18 Unless otherwise specifically provided in this title, for
- 19 purposes of this title—
- 20 (1) the terms "appropriate Federal banking
- 21 agency", "Federal banking agencies", and "insured
- depository institution" have the same meanings as in
- 23 section 3 of the Federal Deposit Insurance Act; and
- 24 (2) the term "insured credit union" has the same
- 25 meaning as in section 101 of the Federal Credit
- 26 Union Act.

1	SEC. 302. ADMINISTRATIVE CONSIDERATION OF BURDEN
2	WITH NEW REGULATIONS.
3	In determining the effective date and administrative
4	compliance requirements for new regulations that impose
5	additional reporting, disclosure, or other requirements on
6	insured depository institutions, each Federal banking agen-
7	cy shall consider, consistent with the principles of safety
8	and soundness and the public interest—
9	(1) any administrative burdens that such regula-
10	tions would place on depository institutions, includ-
11	ing small depository institutions, and customers of
12	depository institutions; and
13	(2) the benefits of such regulations.
14	SEC. 303. STREAMLINING OF REGULATORY REQUIREMENTS.
15	(a) Review of Regulations; Regulatory Uni-
16	FORMITY.—During the 2-year period beginning on the date
17	of enactment of this Act, each Federal banking agency shall,
18	consistent with principles of safety and soundness and the
19	public interest—
20	(1) conduct a review of the regulations and writ-
21	ten policies of that agency—
22	(A) to streamline those regulations and
23	policies in order to improve efficiency, reduce
24	unnecessary costs, and eliminate unwarranted
25	constraints on credit availability; and

1	(B) to remove inconsistencies and outmoded
2	and duplicative requirements; and
3	(2) work jointly with the other Federal banking
4	agencies to make uniform all regulations and guide-
5	lines implementing common statutory or supervisory
6	policies.
7	(b) Report to Congress.—The Federal banking
8	agencies shall submit a joint report to the Congress annu-
9	ally for 2 years following the date of enactment of this Act
10	detailing the progress of the agencies in carrying out the
11	requirements of subsection (a).
12	SEC. 304. ELIMINATION OF DUPLICATIVE FILINGS.
13	The Federal banking agencies shall work jointly—
14	(1) to eliminate, to the extent practicable, dupli-
15	cative or otherwise unnecessary requests for informa-
15 16	cative or otherwise unnecessary requests for informa- tion in connection with applications or notices to the
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16	tion in connection with applications or notices to the
16 17	tion in connection with applications or notices to the agencies; and
16 17 18	tion in connection with applications or notices to the agencies; and  (2) to harmonize, to the extent practicable, any
16 17 18 19	tion in connection with applications or notices to the agencies; and  (2) to harmonize, to the extent practicable, any inconsistent publication and public notice require-
16 17 18 19 20	tion in connection with applications or notices to the agencies; and  (2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.
16 17 18 19 20 21 22	tion in connection with applications or notices to the agencies; and  (2) to harmonize, to the extent practicable, any inconsistent publication and public notice requirements.  SEC. 305. COORDINATED AND UNIFIED EXAMINATIONS.

1	"(6) Coordinated examinations.—To mini-
2	mize the disruptive effects of examinations on the op-
3	erations of insured depository institutions—
4	"(A) each appropriate Federal banking
5	agency shall, to the extent practicable and con-
6	sistent with safety and soundness principles and
7	the public interest—
8	"(i) coordinate examinations to be con-
9	ducted by that agency at an insured deposi-
10	tory institution and its affiliates;
11	"(ii) coordinate with the other appro-
12	priate Federal banking agencies in the con-
13	duct of such examinations; and
14	"(iii) work to coordinate the conduct of
15	all examinations made pursuant to this
16	subsection with the appropriate State bank
17	supervisor; and
18	"(B) not later than 2 years after the date
19	of enactment of the Community Development,
20	Credit Enhancement, and Regulatory Improve-
21	ment Act of 1993, the Federal banking agencies
22	shall jointly establish and implement a system
23	for determining which one of the Federal bank-
24	ing agencies shall conduct a unified examination
25	of each insured depository institution and its af-

1	filiates, as required by this subsection, on behalf
2	of all Federal banking agencies.''.
3	SEC. 306. EIGHTEEN-MONTH EXAMINATION RULE FOR CER-
4	TAIN SMALL INSTITUTIONS.
5	Section 10(d)(4) of the Federal Deposit Insurance Act
6	(12 U.S.C. 1820(d)(4)) is amended—
7	(1) in subparagraph (A), by striking
8	"\$100,000,000" and inserting "\$250,000,000";
9	(2) in subparagraph (C), by striking ''and its
10	composite condition was found to be outstanding;"
11	and inserting ''and its composite condition—
12	"(i) was found to be outstanding; or
13	"(ii) in the case of an insured deposi-
14	tory institution that has total assets of less
15	than \$175,000,000, was found to be out-
16	standing or good;''.
17	(3) by redesignating subparagraph (D) as sub-
18	paragraph (E); and
19	(4) by inserting after subparagraph (C) the fol-
20	lowing new subparagraph:
21	"(D) the insured institution is not currently
22	subject to a formal enforcement proceeding or
23	order by the Corporation or the appropriate Fed-
24	eral banking agency; and''.

## 1 SEC. 307. CALL REPORT SIMPLIFICATION.

2	(a) Modernization of Call Report Filing and
3	Disclosure System.—In order to reduce the administra-
4	tive requirements pertaining to bank reports of condition,
5	savings association financial reports, and bank holding
6	company consolidated and parent-only financial state-
7	ments, and to improve the timeliness of such reports and
8	statements, the Federal banking agencies shall—
9	(1) work jointly to develop a system under
10	which—
11	(A) insured depository institutions and
12	their affiliates may file such reports and state-
13	ments electronically; and
14	(B) the Federal banking agencies may make
15	such reports and statements available to the pub-
16	lic electronically; and
17	(2) not later than 1 year after the date of enact-
18	ment of this Act, report to the Congress and make rec-
19	ommendations for legislation that would enhance effi-
20	ciency for filers and users of such reports and state-
21	ments.
22	(b) Uniform Reports and Simplification of In-
23	STRUCTIONS.—The Federal banking agencies shall, consist-
24	ent with the principles of safety and soundness, work joint-
25	ly—

1	(1) to adopt a single form for the filing of core
2	information required to be submitted under Federal
3	law to all such agencies in the reports and statements
4	referred to in subsection (a); and
5	(2) to simplify instructions accompanying such
6	reports and statements and to provide an index to the
7	instructions that is adequate to meet the needs of both
8	filers and users.
9	(c) Review of Call Report Schedule.—Each Fed-
10	eral banking agency shall—
11	(1) review the information required by schedules
12	supplementing the core information referred to in
13	subsection (b); and
14	(2) eliminate requirements that are not war-
15	ranted for reasons of safety and soundness or other
16	public purposes.
17	SEC. 308. REPEAL OF PUBLICATION REQUIREMENTS.
18	(a) Revised Statutes.—Section 5211 of the Revised
19	Statutes (12 U.S.C. 161) is amended—
20	(1) in the fifth sentence of subsection (a), by
21	striking "; and the statement of resources" and all
22	that follows through "as may be required by the
23	Comptroller"; and
24	(2) in subsection (c), by striking the fourth sen-
25	tence.

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1	(b) FDIA.—Section 7(a)(1) of the Federal Deposit In-
2	surance Act (12 U.S.C. 1817(a)(1)) is amended by striking
3	the fourth sentence.
4	(c) Federal Reserve Act.—Section 9 of the Federal
5	Reserve Act (12 U.S.C. 324) is amended in the last sentence
6	of the sixth undesignated paragraph, by striking "and shall
7	be published" and all that follows through the end of the
8	sentence and inserting a period.
9	SEC. 309. REGULATORY APPEALS PROCESS.
10	(a) In General.—Not later than 180 days after the
<ul><li>10</li><li>11</li></ul>	(a) In General.—Not later than 180 days after the date of enactment of this Act, each appropriate Federal
	v
11	date of enactment of this Act, each appropriate Federal
11 12	date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Adminis-
<ul><li>11</li><li>12</li><li>13</li></ul>	date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency
11 12 13 14	date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review
11 12 13 14 15	date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured de-
<ul><li>11</li><li>12</li><li>13</li><li>14</li><li>15</li><li>16</li></ul>	date of enactment of this Act, each appropriate Federal banking agency and the National Credit Union Administration Board shall establish an independent intra-agency appellate process. The process shall be available to review material supervisory determinations made at insured depository institutions or at insured credit unions that the

- (1) that any appeal of a material supervisory
   determination by an insured depository institution or
- credit union is heard and decided expeditiously; and

20 ensure—

1	(2) that appropriate safeguards exist for protect-
2	ing the appellant from retaliation by agency examin-
3	ers.
4	(c) Comment Period.—Not later than 90 days after
5	the date of enactment of this Act, each appropriate Federal
6	banking agency and the National Credit Union Adminis-
7	tration shall provide public notice and opportunity for com-
8	ment on proposed guidelines for the establishment of an ap-
9	pellate process under this section.
10	(d) Definitions.—For purposes of this section—
11	(1) the term ''material supervisory determina-
12	tions' includes determinations relating to—
13	(A) examination ratings;
14	(B) the adequacy of loan loss reserve provi-
15	sions; and
16	(C) loan classifications on loans that are
17	significant to the institution; and
18	(2) the term ''independent appellate process''
19	means a review by an agency official who does not di-
20	rectly or indirectly report to the agency official who
21	made the material supervisory determination under
22	review.
23	(e) Effect on Other Authority.—Nothing in this
24	section shall affect the authority of an appropriate Federal
25	banking agency or the National Credit Union Association

1	Board to take enforcement or supervisory action against an
2	institution.
3	SEC. 310. ELECTRONIC FILING OF CURRENCY TRANS
4	ACTION REPORTS.
5	Section 123 of the Bank Secrecy Act (12 U.S.C. 1953)
6	is amended by adding at the end the following new sub-
7	section:
8	"(c) Acceptance of Automated Records.—The
9	Secretary shall permit an uninsured bank or financial in-
10	stitution to retain or maintain records referred to in sub-
11	section (a) in electronic or automated form, subject to terms
12	and conditions established by the Secretary.".
13	SEC. 311. BANK SECRECY ACT PUBLICATION REQUIRE
14	MENTS.
15	Chapter 53 of title 31, United States Code, is amended
16	by adding at the end the following new section:
17	"SEC. 5329. STAFF COMMENTARIES.
18	"The Secretary shall—
19	"(1) publish all written rulings interpreting this
20	chapter; and
21	"(2) annually issue a staff commentary on the
22	regulations issued under this chapter.''.

1	SEC. 312. EXEMPTION OF BUSINESS LOANS FROM REAL ES-
2	TATE SETTLEMENT PROCEDURES ACT RE-
3	QUIREMENTS.
4	The Real Estate Settlement Procedures Act of 1974 (12
5	U.S.C. 2601 et seq.) is amended by inserting after section
6	6 the following new section:
7	"SEC. 7. EXEMPTED TRANSACTIONS.
8	"This Act does not apply to credit transactions involv-
9	ing extensions of credit—
10	"(1) primarily for business, commercial, or agri-
11	cultural purposes; or
12	"(2) to government or governmental agencies or
13	instrumentalities.''.
14	SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIREC-
<ul><li>14</li><li>15</li></ul>	SEC. 313. FLEXIBILITY IN CHOOSING BOARDS OF DIREC- TORS.
15	TORS.
<ul><li>15</li><li>16</li><li>17</li></ul>	TORS.  Section 5146 of the Revised Statutes (12 U.S.C. 72)
<ul><li>15</li><li>16</li><li>17</li></ul>	TORS.  Section 5146 of the Revised Statutes (12 U.S.C. 72)  is amended in the first sentence, by striking "two thirds"
15 16 17 18	TORS.  Section 5146 of the Revised Statutes (12 U.S.C. 72)  is amended in the first sentence, by striking "two thirds"  and inserting "a majority".
15 16 17 18 19 20	TORS.  Section 5146 of the Revised Statutes (12 U.S.C. 72)  is amended in the first sentence, by striking "two thirds"  and inserting "a majority".  SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.
15 16 17 18 19 20 21	TORS.  Section 5146 of the Revised Statutes (12 U.S.C. 72)  is amended in the first sentence, by striking "two thirds"  and inserting "a majority".  SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.  Section 36(i) of the Federal Deposit Insurance Act (12)
15 16 17 18 19 20 21	Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence, by striking "two thirds" and inserting "a majority".  SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.  Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended by striking paragraph (2)
15 16 17 18 19 20 21 22	Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence, by striking "two thirds" and inserting "a majority".  SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.  Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended by striking paragraph (2) and inserting the following:
15 16 17 18 19 20 21 22 23	Section 5146 of the Revised Statutes (12 U.S.C. 72) is amended in the first sentence, by striking "two thirds" and inserting "a majority".  SEC. 314. HOLDING COMPANY AUDIT REQUIREMENTS.  Section 36(i) of the Federal Deposit Insurance Act (12 U.S.C. 1831m(i)) is amended by striking paragraph (2) and inserting the following:  "(2) the institution—

1	"(i) total assets, as of the beginning of
2	such fiscal year, of more than
3	\$5,000,000,000 and less than
4	\$9,000,000,000; and
5	"(ii) a CAMEL composite rating of 1
6	or 2 under the Uniform Financial Institu-
7	tions Rating System (or an equivalent rat-
8	ing by any such agency under a comparable
9	rating system) as of the most recent exam-
10	ination of such institution by the Corpora-
11	tion or the appropriate Federal banking
12	agency; or
13	" $(C)(i)$ has total assets, as of the beginning
14	of such fiscal year, of more than \$9,000,000,000;
15	and
16	"(ii) has a CAMEL composite rating of 1
17	or 2 under the Uniform Financial Institutions
18	Rating System (or an equivalent rating by any
19	such agency under a comparable rating system)
20	as of the most recent examination of such insti-
21	tution by the Corporation or the appropriate
22	Federal banking agency.
23	Notwithstanding paragraph (2)(C), in the case of an in-
24	sured depository institution that the Corporation deter-
25	mines to be a large institution, the audit committee of the

1	holding company of such an institution shall not include
2	any large customers of the institution.
3	"(3) The appropriate Federal banking agency
4	may require an institution with total assets in excess
5	of \$9,000,000,000 to comply with this section, not-
6	withstanding the exception provided by this sub-
7	section, if it determines that such exemption will cre-
8	ate a significant risk to the affected deposit insurance
9	fund if applied to that institution.".
10	SEC. 315. STATE REGULATION OF REAL ESTATE APPRAIS-
11	ALS.
12	Section 1122 of the Financial Institutions Reform, Re-
13	covery, and Enforcement Act of 1989 (12 U.S.C. 3351) is
14	amended—
15	(1) by redesignating subsections (b) through (e)
16	as subsections (c) through (f), respectively;
17	(2) by inserting after subsection (a) the following
18	new subsection:
19	"(b) Reciprocity.—The Appraisal Subcommittee
20	shall encourage the States to develop reciprocity agreements
21	that readily authorize appraisers who are licensed or cer-
22	tified in one State (and who are in good standing with their
23	State appraiser certifying or licensing agency) to perform
24	appraisals in other States."; and
25	(3) in subsection (a)—

1	(A) by redesignating paragraphs (1)
2	through (3) as subparagraphs (A) through (C);
3	(B) by striking "A State" and inserting the
4	following:
5	"(1) In general.—A State"; and
6	(C) by adding at the end the following new
7	paragraph:
8	"(2) Fees for temporary practice.—A State
9	appraiser certifying or licensing agency shall not im-
10	pose excessive fees or burdensome requirements, as de-
11	termined by the Appraisal Subcommittee, for tem-
12	porary practice under this subsection.".
13	SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR
13 14	SEC. 316. ACCELERATION OF EFFECTIVE DATE FOR INTERAFFILIATE TRANSACTIONS.
14	INTERAFFILIATE TRANSACTIONS.
14 15 16	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section
14 15 16 17	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section  11(a)(2) of the Home Owners' Loan Act (12 U.S.C.
14 15 16 17	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section  11(a)(2) of the Home Owners' Loan Act (12 U.S.C.  1468(a)(2)) is amended by adding at the end the following
14 15 16 17	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section  11(a)(2) of the Home Owners' Loan Act (12 U.S.C.  1468(a)(2)) is amended by adding at the end the following new subparagraph:
14 15 16 17 18	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section  11(a)(2) of the Home Owners' Loan Act (12 U.S.C.  1468(a)(2)) is amended by adding at the end the following new subparagraph:  "(C) Transition rule for Well Capital-
14 15 16 17 18 19 20	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section  11(a)(2) of the Home Owners' Loan Act (12 U.S.C.  1468(a)(2)) is amended by adding at the end the following new subparagraph:  "(C) Transition rule for well capital- IZED SAVINGS ASSOCIATIONS.—
14 15 16 17 18 19 20 21	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section  11(a)(2) of the Home Owners' Loan Act (12 U.S.C.  1468(a)(2)) is amended by adding at the end the following new subparagraph:  "(C) Transition rule for well capital-  IZED SAVINGS ASSOCIATIONS.—  "(i) IN GENERAL.—A savings associa-
14 15 16 17 18 19 20 21	INTERAFFILIATE TRANSACTIONS.  (a) Home Owners' Loan Act Amendment.—Section  11(a)(2) of the Home Owners' Loan Act (12 U.S.C.  1468(a)(2)) is amended by adding at the end the following new subparagraph:  "(C) Transition rule for well capitalized (as defined in that is well capitalized (as defined in

1	treated as a bank for purposes of section
2	23A(d)(1) and section 23B of the Federal
3	Reserve Act.
4	"(ii) Liability of commonly con-
5	TROLLED DEPOSITORY INSTITUTIONS.—Any
6	savings association that engages under
7	clause (i) in a transaction that would not
8	otherwise be permissible under this sub-
9	section, and any affiliated insured bank
10	that is commonly controlled (as defined in
11	section 5(e)(9) of the Federal Deposit Insur-
12	ance Act), shall be subject to subsection (e)
13	of section 5 of the Federal Deposit Insur-
14	ance Act as if paragraph (6) of that sub-
15	section did not apply.''.
16	(b) Repeal Provision.—Effective on January 1,
17	1995, subparagraph (C) of section 11(a)(2) of the Home
18	Owners' Loan Act (12 U.S.C. 1468(a)(2)) (as added by sub-
19	section (a) of this section) is repealed.
20	SEC. 317. COLLATERALIZATION OF PUBLIC DEPOSITS.
21	Section 13(e) of the Federal Deposit Insurance Act (12
22	U.S.C. 1823(e)) is amended—
23	(1) by redesignating paragraphs (1) through (4)
24	as subparagraphs (A) through (D), respectively;

1	(2) by striking ''No agreement'' and inserting the
2	following:
3	"(1) In general.—No agreement"; and
4	(3) by adding at the end the following new para-
5	graph:
6	"(2) Public deposits.—An agreement to pro-
7	vide for the lawful collateralization of deposits of a
8	Federal, State, or local governmental entity or of any
9	depositor referred to in section $11(a)(2)$ shall not be
10	deemed to be invalid pursuant to paragraph (1)(B)
11	solely because such agreement was not executed con-
12	temporaneously with the acquisition of the collateral
13	or with any changes in the collateral made in accord-
14	ance with such agreement.".
15	SEC. 318. ELIMINATION OF STOCK VALUATION PROVISION.
16	(a) In General.—Section 39(b) of the Federal De-
17	posit Insurance Act (12 U.S.C. 1831p-1(b)), as added by
18	section 132(a) of the Federal Deposit Insurance Corpora-
19	tion Improvements Act of 1991) is amended to read as fol-
20	lows:
21	"(b) Asset Quality, Earnings, and Stock Valu-
22	ation Standards.—Each appropriate Federal banking
23	agency shall, for all insured depository institutions and de-
24	pository institution holding companies, prescribe standards

1	relating to asset quality, earnings, and stock valuation that
2	the agency determines to be appropriate.".
3	(b) Establishing Standards in Guidelines.—Sec-
4	tion 39(d) of the Federal Deposit Insurance Act (12 U.S.C.
5	1831p-1(d)) is amended—
6	(1) in the subsection heading, by striking "BY
7	REGULATION''; and
8	(2) in paragraph (1)—
9	(A) in the first sentence, by inserting "or
10	guideline'' before the period; and
11	(B) in the second sentence, by inserting "or
12	guidelines'' after "Such regulations".
13	(c) Effective Date.—The amendments made by sub-
14	sections (a) and (b) shall be construed to have the same ef-
15	fective date as section 39 of the Federal Deposit Insurance
16	Act, as provided in section 132(c) of the Federal Deposit
17	Insurance Corporation Improvements Act of 1991.
18	SEC. 319. EXPEDITED PROCEDURES FOR FORMING A BANK
19	HOLDING COMPANY.
20	Section 3(a) of the Bank Holding Company Act of
21	1956 (12 U.S.C. 1842(a)) is amended—
22	(1) in the second sentence, by striking "or (B)"
23	and inserting "(B)"; and
24	(2) in the second sentence, by inserting before the
25	period the following: "; or (C) with 30 days prior no-

1	tification to the Board, the acquisition by a company
2	of control of a bank in a reorganization in which a
3	person or group of persons exchanges its shares of the
4	bank for shares of a newly formed bank holding com-
5	pany and receives, after the reorganization, substan-
6	tially the same proportional share interest in the
7	holding company as it held in the bank (except for
8	changes in shareholders' interests resulting from the
9	exercise of dissenting shareholders' rights under State
10	or Federal law) if, immediately following the acquisi-
11	tion, (i) the bank holding company meets the capital
12	and other financial standards prescribed by the
13	Board by regulation for such a bank holding com-
14	pany; (ii) the bank is adequately capitalized (as de-
15	fined in section 38 of the Federal Deposit Insurance
16	Act); and (iii) the holding company does not engage
17	in any activities other than those of banking or man-
18	aging and controlling banks".
19	SEC. 320. EXEMPTION OF CERTAIN HOLDING COMPANY
20	FORMATIONS FROM REGISTRATION UNDER
21	THE SECURITIES ACT OF 1933.
22	Section 4 of the Securities Act of 1933 (15 U.S.C. 77d)
23	is amended by adding at the end the following new para-
24	graph:

1	"(7) transactions involving offers or sales of eq-
2	uity securities, in connection with the acquisition of
3	a bank by a company under section 3(a) of the Bank
4	Holding Company Act of 1956, if—
5	"(A) the acquisition occurs solely as part of
6	a reorganization in which a person or group of
7	persons exchanges its shares of a bank for shares
8	of a newly formed bank holding company with
9	no significant assets other than securities of the
10	bank and the existing subsidiaries of the bank;
11	"(B) the shareholders receive, after that re-
12	organization, substantially the same propor-
13	tional share interests in the bank holding com-
14	pany as they held in the bank, except for changes
15	in shareholders' interests resulting from lawful
16	elimination of fractional interests and the exer-
17	cise of dissenting shareholders' rights under State
18	or Federal law;
19	"(C) the rights and interests of security
20	holders in the bank holding company are sub-
21	stantially the same as those in the bank prior to
22	the transaction, other than as may be required
23	by law: and

1	"(D) the bank holding company has sub-
2	stantially the same assets and liabilities as the
3	bank had prior to the transaction.".
4	SEC. 321. REDUCTION OF POST-APPROVAL WAITING PERIOD
5	FOR BANK HOLDING COMPANY ACQUISI-
6	TIONS.
7	Section 11(b)(1) of the Bank Holding Company Act
8	of 1956 (12 U.S.C. 1849(b)(1)) is amended by inserting be-
9	fore the period at the end of the fourth sentence the follow-
10	ing: "or, if the Board has not received any adverse comment
11	from the Attorney General of the United States relating to
12	competitive factors, such shorter period of time as may be
13	prescribed by the Board with the concurrence of the Attor-
14	ney General, but in no event less than 15 calendar days
15	after the date of approval".
16	SEC. 322. REDUCTION OF POST-APPROVAL WAITING PERIOD
17	FOR BANK MERGERS.
18	Section 18(c)(6) of the Federal Deposit Insurance Act
19	(12 U.S.C. 1828(c)(6)) is amended by inserting before the
20	period at the end of the last sentence the following: "or, it
21	the agency has not received any adverse comment from the
22	Attorney General of the United States relating to competi-
23	tive factors, such shorter period of time as may be pre-
24	scribed by the agency with the concurrence of the Attorney

1	General, but in no event less than 15 calendar days after
2	the date of approval".
3	SEC. 323. BANKERS' BANKS.
4	(a) Ownership by Bankers' Banks.—
5	(1) Paragraph Seventh of section 5136 of the Re-
6	vised Statutes (12 U.S.C. 24) is amended in the elev-
7	enth sentence—
8	(A) by inserting "or depository institution
9	holding companies (as defined in section 3 of the
10	Federal Deposit Insurance Act)" after "(except to
11	the extent directors' qualifying shares are re-
12	quired by law) by depository institutions"; and
13	(B) by striking "services for other deposi-
14	tory institutions and their officers, directors and
15	employees" and inserting the following: "services
16	to or for other depository institutions and the of-
17	ficers, directors, and employees of such institu-
18	tions, and in providing correspondent banking
19	services at the request of other depository institu-
20	tions (also referred to as a 'banker's bank')''.
21	(2) Section 5169(b)(1) of the Revised Statutes
22	(12 U.S.C. 27(b)(1)) is amended—
23	(A) by inserting "or depository institution
24	holding companies" after "(except to the extent

1	directors' qualifying shares are required by law)
2	by other depository institutions"; and
3	(B) by striking "services for other deposi-
4	tory institutions and their officers, directors and
5	employees" and inserting the following: "services
6	to or for other depository institutions and the of-
7	ficers, directors, and employees of such institu-
8	tions, and in providing correspondent banking
9	services at the request of other depository institu-
10	tions (also referred to as a 'banker's bank')''.
11	(b) Ownership by Savings Associations.—Section
12	5(c)(4) of the Home Owners' Loan Act (12 U.S.C.
13	1464(c)(4)) is amended by adding at the end the following
14	new subparagraph:
15	"(E) Bankers' Banks.—A Federal savings
16	association may purchase for its own account
17	shares of stock of a bankers' bank, described in
18	Paragraph Seventh of section 5136 of the Revised
19	Statutes or in section 5169(b) of the Revised
20	Statutes, on the same terms and conditions as a
21	national bank may purchase such shares.''.
22	(c) Technical and Conforming Amendments.—
23	(1) Bank holding company act.—Section 3(e)
24	of the Bank Holding Company Act of 1956 (12

1	U.S.C. 1842(e)) is amended by striking the second
2	sentence.
3	(2) Management interlocks act.—Section
4	202(3)(D) of the Depository Institution Management
5	Interlocks Act (12 U.S.C. 3201(3)(D)) is amended by
6	striking "the voting securities" and all that follows
7	through the end of the subparagraph and inserting
8	"and is a bankers' bank, described in Paragraph Sev-
9	enth of section 5136 of the Revised Statutes; or".
10	(d) Lending Limit for Loans Secured by Securi-
11	TIES.—Section 11(m) of the Federal Reserve Act (12 U.S.C.
12	248(m)) is amended by striking "10 percentum" each place
13	such term appears and inserting "15 percent".
14	SEC. 324. BANK SERVICE CORPORATION ACT AMENDMENT.
15	Section 5 of the Bank Service Corporation Act (12
16	U.S.C. 1865) is amended—
17	(1) in subsection (a), by striking "the prior ap-
18	proval of" and inserting "prior notice, as determined
19	by"; and
20	(2) in subsection (c), by inserting "or whether to
21	approve or disapprove any notice" after "approval".
22	SEC. 325. MERGER TRANSACTION REPORTS.
23	Section 18(c) of the Federal Deposit Insurance Act (12
24	U.S.C. 1828(c)) is amended—
25	(1) in paragraph (4)—

1	(A) in the first sentence—
2	(i) by striking "General and the other
3	two'' and inserting "General, who shall
4	promptly notify the other"; and
5	(ii) by inserting before the period "of
6	any such proposed transaction that raises a
7	significant competitiveness issue'; and
8	(B) in the second sentence, by striking "and
9	the other two banking agencies"; and
10	(2) in paragraph (6), by striking 'and the other
11	two banking agencies".
12	SEC. 326. CREDIT CARD ACCOUNTS RECEIVABLE SALES.
13	Section 11(e) of the Federal Deposit Insurance Act (12
14	U.S.C. 1821(e)) is amended by adding at the end the follow-
15	ing new paragraphs:
16	"(14) Selling Credit Card Accounts Receiv-
17	ABLE.—
18	"(A) Notification required.—An
19	undercapitalized insured depository institution
20	(as defined in section 38) shall notify the Cor-
21	poration in writing before entering into an
22	agreement to sell credit card accounts receivable.
23	"(B) Waiver by corporation.—The Cor-
24	poration may at any time, in its sole discretion
25	and upon such terms as it may prescribe, waive

1	its right to repudiate an agreement to sell credit
2	card accounts receivable if the Corporation—
3	"(i) determines that the waiver is in
4	the best interests of the deposit insurance
5	fund; and
6	"(ii) provides a written waiver to the
7	selling institution.
8	"(C) Effect of waiver on succes-
9	SORS.—
10	"(i) In General.—If, under subpara-
11	graph (B), the Corporation has waived its
12	right to repudiate an agreement to sell cred-
13	it card accounts receivable—
14	"(I) any provision of the agree-
15	ment that restricts solicitation of a
16	credit card customer of the selling in-
17	stitution, or the use of a credit card
18	customer list of the institution, shall
19	bind any receiver or conservator of the
20	institution; and
21	"(II) the Corporation shall re-
22	quire any acquirer of the selling insti-
23	tution, or of substantially all of the
24	selling institution's assets or liabilities,
25	to agree to be bound by a provision de-

1	scribed in subclause (I) as if the
2	acquirer were the selling institution.
3	"(ii) Exception.—Clause (i)(II) does
4	not—
5	"(I) restrict the acquirer's author-
6	ity to offer any product or service to
7	any person identified without using a
8	list of the selling institution's cus-
9	tomers in violation of the agreement;
10	"(II) require the acquirer to re-
11	strict any preexisting relationship be-
12	tween the acquirer and a customer; or
13	"(III) apply to any transaction
14	in which the acquirer acquires only in-
15	sured deposits.
16	"(D) Waiver not actionable.—The Cor-
17	poration shall not, in any capacity, be liable to
18	any person for damages resulting from the waiv-
19	er of or failure to waive the Corporation's right
20	under this section to repudiate any contract or
21	lease, including an agreement to sell credit card
22	accounts receivable. No court shall issue any
23	order affecting any such waiver or failure to
24	waive.

1	"(E) Other authority not affected.—
2	This paragraph does not limit any other author-
3	ity of the Corporation to waive the Corporation's
4	right to repudiate an agreement or lease under
5	this section.
6	"(15) Certain credit card customer lists
7	PROTECTED.—
8	"(A) In general.—If any insured deposi-
9	tory institution sells credit card accounts receiv-
10	able under an agreement negotiated at arm's
11	length that provides for the sale of the institu-
12	tion's credit card customer list, the Corporation
13	shall prohibit any party to a transaction with
14	respect to the institution under this section or
15	section 13 from using the list except as permitted
16	under the agreement.
17	"(B) Fraudulent transactions ex-
18	CLUDED.—Subparagraph (A) does not limit the
19	Corporation's authority to repudiate any agree-
20	ment entered into with the intent to hinder,
21	delay, or defraud the institution, the institution's
22	creditors, or the Corporation.".

1	SEC. 327. LIMITING POTENTIAL LIABILITY ON FOREIGN AC-
2	COUNTS.
3	(a) Amendment to the Federal Reserve Act.—
4	The Federal Reserve Act (12 U.S.C. 221 et seq.) is amended
5	by inserting after section 25B the following new section:
6	"SEC. 25C. POTENTIAL LIABILITY ON FOREIGN ACCOUNTS.
7	"A member bank shall not be required to repay any
8	deposit made at a foreign branch of the bank if the branch
9	cannot repay the deposit due to—
10	"(1) an act of war, insurrection or civil strife;
11	or
12	"(2) an action by a foreign government or in-
13	strumentality (whether de jure or de facto) in the
14	country in which the branch is located,
15	unless the member bank has expressly agreed in writing to
16	repay the deposit under those circumstances. The Board and
17	the Comptroller of the Currency may jointly prescribe such
18	regulations as they deem necessary to implement this sec-
19	tion.".
20	(b) Conforming Amendments to the Federal De-
21	POSIT INSURANCE ACT.—
22	(1) In general.—Section 18 of the Federal De-
23	posit Insurance Act (12 U.S.C. 1828) is amended by
24	adding at the end the following new subsection:
25	"(q) Sovereign Risk.—Section 25C of the Federal
26	Reserve Act shall apply to every nonmember insured bank

1	in the same manner and to the same extent as if the
2	nonmember insured bank were a member bank.".
3	(2) Conforming amendment.—Subparagraph
4	(A) of section $3(l)(5)$ of the Federal Deposit Insurance
5	Act (12 U.S.C. 1813(1)(5)) is amended to read as fol-
6	lows:
7	"(A) any obligation of a depository institu-
8	tion which is carried on the books and records of
9	an office of such bank or savings association lo-
10	cated outside of any State, unless—
11	"(i) such obligation would be a deposit
12	if it were carried on the books and records
13	of the depository institution, and would be
14	payable at, an office located in any State;
15	and
16	"(ii) the contract evidencing the obliga-
17	tion provides by express terms, and not by
18	implication, for payment at an office of the
19	depository institution located in any State;
20	and".
21	(c) Existing Claims Not Affected—Section 25C of
22	the Federal Reserve Act (as added by subsection (a)) shall
23	not be applied retroactively and shall not be construed to
24	affect or apply to any claim or cause of action addressed

1	by that section arising from events or circumstances that
2	occurred before the date of enactment of this Act.
3	SEC. 328. AMENDMENTS TO OUTDATED DIVIDEND PROVI-
4	SIONS.
5	(a) Withdrawal of Capital.—Section 5204 of the
6	Revised Statutes (12 U.S.C. 56) is amended—
7	(1) in the second sentence, by striking "net prof-
8	its then on hand, deducting therefrom its losses and
9	bad debts'' and inserting 'undivided profits, subject
10	to other applicable provisions of law"; and
11	(2) by striking the third sentence.
12	(b) Declaration of Dividends.—Section 5199 of the
13	Revised Statutes (12 U.S.C. 60) is amended—
14	(1) in the first sentence, by striking "net profits
15	of the association" and inserting "undivided profits
16	of the association, subject to the limitations in sub-
17	section (b), ";
18	(2) by striking "net profits" each subsequent
19	place such term appears and inserting "net income";
20	and
21	(3) by striking subsection (c).
22	SEC. 329. ELIMINATION OF DUPLICATIVE DISCLOSURES
23	FOR HOME EQUITY LOANS.
24	Section 4(a) of the Real Estate Settlement Procedures
25	Act (12 U.S.C. 2603(a)) is amended by adding at the end

1	the following: "In the case of a federally related mortgage
2	loan secured by a subordinate lien on residential property,
3	disclosures made under section 127A(a) of the Truth in
4	Lending Act may be used in lieu of the disclosures required
5	under this section if—
6	"(1) the disclosures made pursuant to such sec-
7	tion 127A(a) contain all of the information that is re-
8	quired under this section; and
9	"(2) the information is disclosed in a manner
10	that is no less conspicuous than is required under this
11	section.''.
12	SEC. 330. REPORT ON CAPITAL STANDARDS AND THEIR IM-
13	PACT ON THE ECONOMY.
13 14	PACT ON THE ECONOMY.  (a) In General.—Not later than 1 year after the date
14	
14 15	(a) In General.—Not later than 1 year after the date
14 15	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after
<ul><li>14</li><li>15</li><li>16</li><li>17</li></ul>	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report
<ul><li>14</li><li>15</li><li>16</li><li>17</li></ul>	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs
14 15 16 17 18	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li><li>19</li></ul>	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the effect
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li><li>19</li><li>20</li></ul>	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the effect of the implementation of risk-based capital standards on—
14 15 16 17 18 19 20 21	(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, after consultation with the Federal banking agencies, shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on the effect of the implementation of risk-based capital standards on—  (1) the safety and soundness of insured deposi-

1	(b) Recommendations.—The report required by sub-
2	section (a) shall contain any recommendations that the Sec-
3	retary of the Treasury considers relevant.
4	SEC. 331. STUDIES ON THE IMPACT OF THE PAYMENT OF IN-
5	TEREST ON RESERVES.
6	(a) Federal Reserve Study.—Not later than 180
7	days after the date of enactment of this Act, the Board of
8	Governors of the Federal Reserve System, in consultation
9	with the Federal Deposit Insurance Corporation, shall con-
10	duct a study and report to Congress on—
11	(1) the necessity, for monetary policy purposes,
12	of continuing to require insured depository institu-
13	tions to maintain sterile reserves;
14	(2) the appropriateness of paying a market rate
15	of interest to insured depository institutions on sterile
16	reserves or, in the alternative, providing for payment
17	of such interest into the appropriate deposit insur-
18	ance fund;
19	(3) the monetary impact that the failure to pay
20	interest on sterile reserves has had on insured deposi-
21	tory institutions, including an estimate of the total
22	dollar amount of interest and the potential income
23	lost by insured depository institutions; and
24	(4) the impact that the failure to pay interest on
25	sterile reserves has had on the ability of the banking

1	industry to compete with nonbanking providers of fi-
2	nancial services and with foreign banks.
3	(b) Budgetary Impact Study.—Not later than 180
4	days after the date of enactment of this Act, the Director
5	of the Office of Management and Budget and the Director
6	of the Congressional Budget Office, in consultation with the
7	Committees on the Budget of the Senate and the House of
8	Representatives, shall jointly conduct a study and report
9	to the Congress on the budgetary impact of—
10	(1) paying a market rate of interest to insured
11	depository institutions on sterile reserves; and
12	(2) paying such interest into the respective
13	deposit insurance funds.
14	SEC. 332. STUDY AND REPORT ON STREAMLINED LENDING
14 15	SEC. 332. STUDY AND REPORT ON STREAMLINED LENDING PROCESS FOR CONSUMER BENEFIT.
15 16	PROCESS FOR CONSUMER BENEFIT.
15 16 17	PROCESS FOR CONSUMER BENEFIT.  (a) STUDY.—During the 12-month period beginning
15 16 17 18	PROCESS FOR CONSUMER BENEFIT.  (a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors
15 16 17 18 19	PROCESS FOR CONSUMER BENEFIT.  (a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Cur-
15 16 17 18 19 20	PROCESS FOR CONSUMER BENEFIT.  (a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Develop-
15 16 17 18 19 20 21	PROCESS FOR CONSUMER BENEFIT.  (a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Development shall conduct a study of ways to improve the home
15 16 17 18 19 20 21	PROCESS FOR CONSUMER BENEFIT.  (a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Development shall conduct a study of ways to improve the home mortgage, small business, and consumer lending processes,
15 16 17 18 19 20 21 22	PROCESS FOR CONSUMER BENEFIT.  (a) STUDY.—During the 12-month period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Secretary of Housing and Urban Development shall conduct a study of ways to improve the home mortgage, small business, and consumer lending processes, consistent with the principles of safety and soundness, so

1	(2) minimize cost and burdens on insured
2	depository institutions, credit unions, and other
3	lenders.
4	(b) Comments.—In conducting the study under sub-
5	section (a), comments shall be solicited from consumer
6	groups, insured depository institutions, other lenders, and
7	any other interested parties.
8	(c) Report.—Not later than 12 months after the date
9	of enactment of this Act, the Board of Governors of the Fed-
10	eral Reserve System, the Comptroller of the Currency, and
11	the Secretary of Housing and Urban Development shall sub-
12	mit a joint report to the Congress indicating any legislative
13	changes necessary to improve the home mortgage, small
14	business, and consumer lending processes and including a
15	summary of comments received pursuant to subsection (b).
16	SEC. 333. REPEAL OF OUTDATED CHARTER REQUIREMENT
17	FOR NATIONAL BANKS.
18	Section 5170 of the Revised Statutes (12 U.S.C. 28)
19	is repealed.
20	SEC. 334. INCLUSION OF COMPTROLLER OF THE CUR-
21	RENCY; CLARIFICATION OF REVISED STAT-
22	UTES.
23	(a) Public Law 93-425.—Section 111 of Public Law
24	93-495 (12 U.S.C. 250) is amended by inserting "the

Comptroller of the Currency," after "Federal Deposit Insur-1 2 ance Corporation,". (b) Revised Statutes.— 3 4 (1) Section 5240.—The third paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) is 5 amended by inserting "or section 301(f)(1) of title 31, 6 United States Code," after "provisions of this sec-7 tion". 8 (2) Section 324.—Section 324 of the Revised 9 Statutes (12 U.S.C. 1) is amended by adding at the 10 end the following: "The Comptroller of the Currency 11 shall have the same authority over matters within the 12 jurisdiction of the Comptroller as the Director of the 13 Office of Thrift Supervision has over matters within 14 15 the Director's jurisdiction under section 3(b)(3) of the Home Owners' Loan Act.". 16 17 (3) Section 5239.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by inserting at 18 19 the end the following new subsection: 20 "(d) AUTHORITY.—The Comptroller of the Currency may act in the Comptroller's own name and through the 21 Comptroller's own attorneys in enforcing any provision of this title, regulations thereunder, or any other law or regulation, or in any action, suit, or proceeding to which the Comptroller of the Currency is a party.".

1	SEC. 335. COMMEMORATION OF 1995 SPECIAL OLYMPIC
2	WORLD GAMES.
3	(a) Coin Specifications.—
4	(1) One dollar silver coins.—
5	(A) Issuance.—The Secretary of the Treas-
6	ury (hereafter in this section referred to as the
7	"Secretary") shall issue not more than 800,000
8	\$1 coins, which shall weigh 26.73 grams, have a
9	diameter of 1.500 inches, and shall contain 90
10	percent silver and 10 percent copper.
11	(B) Design.—The design of the coins issued
12	under this section shall be emblematic of the
13	1995 Special Olympics World Games. On each
14	such coin there shall be a designation of the
15	value of the coin, an inscription of the year
16	"1995", and inscriptions of the words "Liberty",
17	"In God We Trust", "United States of America",
18	and "E Pluribus Unum".
19	(2) Legal tender.—The coins issued under
20	this section shall be legal tender as provided in sec-
21	tion 5103 of title 31, United States Code.
22	(3) Numismatic items.—For purposes of section
23	5132(a)(1) of title 31, United States Code, all coins
24	minted under this section shall be considered to be
25	numismatic items.

1	(b) Sources of Bullion.—The Secretary shall ob-
2	tain silver for the coins minted under this section only from
3	stockpiles established under the Strategic and Critical Mate-
4	rials Stock Piling Act.
5	(c) Selection of Design.—The design for the coins
6	authorized by this section shall be selected by the Secretary
7	after consultation with the 1995 Special Olympics World
8	Games Organizing Committee, Inc. and the Commission of
9	Fine Arts. As required by section 5135 of title 31, United
10	States Code, the design shall also be reviewed by the Citizens
11	Commemorative Coin Advisory Committee.
12	(d) Issuance of the Coins.—
13	(1) QUALITY OF COINS.—The coins authorized
14	under this section may be issued in uncirculated and
15	proof qualities.
16	(2) Mint facility.—Not more than 1 facility of
17	the United States Mint may be used to strike any
18	particular quality of the coins minted under this sec-
19	tion.
20	(3) Period for issuance.—The Secretary shall
21	issue coins minted under this Act during the period
22	beginning on January 15, 1995, and ending on De-
23	cember 31, 1995.
24	(e) Sale of the Coins.—

- 1 (1) SALE PRICE.—The coins issued under this 2 section shall be sold by the Secretary at a price equal 3 to the sum of the face value of the coins, the surcharge 4 provided in paragraph (4) with respect to such coins, 5 and the cost of designing and issuing such coins (in-6 cluding labor, materials, dies, use of machinery, over-7 head expenses, marketing, and shipping).
  - (2) Bulk sales.—The Secretary shall make bulk sales at a reasonable discount.
- 10 (3) PREPAID ORDERS.—The Secretary shall ac-11 cept prepaid orders for the coins authorized under 12 this section prior to the issuance of such coins. Sales 13 under this subsection shall be at a reasonable dis-14 count.
- 15 (4) SURCHARGE REQUIRED.—All sales shall in-16 clude a surcharge of \$10 per coin.
- 17 (f) General Waiver of Procurement Regula-18 tions.—No provision of law governing procurement or 19 public contracts shall be applicable to the procurement of
- 20 goods or services necessary for carrying out the provisions
- 21 of this section. Nothing in this subsection shall relieve any
- 22 person entering into a contract under the authority of this
- 23 section from complying with any law relating to equal em-
- 24 ployment opportunity.

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9

1	(g) Distribution of Surcharges.—The total sur-
2	charges collected by the Secretary from the sale of the coins
3	issued under this section shall be promptly paid by the Sec-
4	retary to the 1995 Special Olympics World Games Organiz-
5	ing Committee, Inc. Such amounts shall be used to—
6	(1) provide a world class sporting event for ath-
7	letes with mental retardation;
8	(2) demonstrate to a global audience the extraor-
9	dinary talents, dedication, and courage of persons
10	with mental retardation; and
11	(3) underwrite the cost of staging and promoting
12	the 1995 Special Olympics World Games.
13	(h) Audits.—The Comptroller General of the United
14	States shall have the right to examine such books, records,
15	documents, and other data of the 1995 Special Olympics
16	World Games Organizing Committee, Inc. as may be related
17	to the expenditure of amounts paid under subsection (g).
18	(i) Financial Assurances.—
19	(1) No net cost to the government.—The
20	Secretary shall take all actions necessary to ensure
21	that the issuance of the coins authorized by this sec-
22	tion shall result in no net cost to the United States
23	Government.

1	(2) Adequate security for payment re-
2	QUIRED.—No coin shall be issued under this section
3	unless the Secretary has received—
4	(A) full payment therefore;
5	(B) security satisfactory to the Secretary to
6	indemnify the United States for full payment; or
7	(C) a guarantee of full payment satisfactory
8	to the Secretary from a depository institution
9	whose deposits are insured by the Federal De-
10	posit Insurance Corporation or the National
11	Credit Union Administration Board.
12	SEC. 336. EXEMPTION FOR BUSINESS ACCOUNTS.
13	Section 274(1) of the Truth in Savings Act (12 U.S.C.
14	4313(1)) is amended to read as follows:
15	"(1) Account.—The term 'account' means any
16	account intended for use by and generally used by
17	consumers primarily for personal, family, or house-
18	hold purposes that is offered by a depository institu-
19	tion into which a consumer deposits funds, including
20	demand accounts, time accounts, negotiable order of
21	withdrawal accounts, and share draft accounts.".

1	SEC. 337. BOARD DISCRETION REGARDING CHECK-RELATED
2	FRAUD.
3	Section 604(e) of the Expedited Funds Availability Act
4	(12 U.S.C. 4003(e)) is amended by adding at the end the
5	following new paragraph:
6	"(4) Prevention of check-related
7	LOSSES.—
8	"(A) In GENERAL.—The Board may, by
9	regulation or order, extend the 1-business-day pe-
10	riod specified in section 603(b)(1), regarding
11	availability of funds deposited by local checks, to
12	2 business days if the Board determines that—
13	"(i) there is a pattern of significant
14	increases in check-related losses at deposi-
15	tory institutions attributable to the provi-
16	sions of this title; and
17	"(ii) such action is necessary to dimin-
18	ish the volume of such check-related losses.
19	"(B) Limitation on other authority.—
20	The authority of the Board under paragraph (1)
21	shall not apply to the applicability of section
22	603(b)(1) or the time period specified therein.".
23	SEC. 338. CIVIL LIABILITY UNDER TRUTH IN SAVINGS.
24	Section 271(a)(2)(A) of the Truth in Savings Act (12
25	U.S.C. 4310(a)(2)(A)) is amended by inserting "(other than

1	an action based on a violation of section 263)" after "indi-
2	vidual action''.
3	SEC. 339. INSIDER LENDING.
4	(a) Loans To Executive Officers By Member
5	Banks.—Section 22(g)(2) of the Federal Reserve Act (12
6	U.S.C. 375a(g)(2)) is amended by striking "With the spe-
7	cific prior approval of its board of directors, a member"
8	and inserting "A member".
9	(b) Extensions of Credit To Executive Offi-
10	cers, Directors, and Principal Shareholders of
11	Member Banks.—Section 22(h)(8) of the Federal Reserve
12	Act (12 U.S.C. 375b(h)(8)) is amended—
13	(1) by striking "Member Bank.—For" and in-
14	serting the following: "Member Bank.—
15	"(A) In General.—Except as provided in
16	subparagraph (B), for''; and
17	(2) by adding at the end the following:
18	"(B) Exception.—The Board shall have
19	the authority by regulation to suspend the appli-
20	cability of any or all of this subsection, except
21	for the provisions of paragraph (2), with respect
22	to any individual who is a director or an execu-
23	tive officer of a subsidiary of the company that
24	controls the member bank, if the Board finds
25	that such individual does not actually partici-

1	pate in major policymaking functions of the
2	member bank.''.
3	SEC. 340. REVISIONS OF STANDARDS.
4	Section 305(b)(1) of the Federal Deposit Insurance
5	Corporation Improvement Act of 1991 (12 U.S.C. 1828
6	note) is amended—
7	(1) in subparagraph (A), by striking "and" at
8	the end;
9	(2) in subparagraph (B), by striking the period
10	at the end and inserting "; and"; and
11	(3) by adding at the end the following new sub-
12	paragraph:
13	"(C) take into account the size and activi-
14	ties of the institutions and do not cause undue
15	reporting burdens.''.
16	SEC. 341. ALTERNATIVE RULES FOR RADIO ADVERTISING
17	OF CONSUMER LEASES.
18	Section 184 of the Truth in Lending Act (15 U.S.C.
19	1667c) is amended—
20	(1) by redesignating subsection (b) as subsection
21	(c); and
22	(2) by inserting after subsection (a) the following
23	new subsection:
24	"(b) Radio Advertisements.—

1	"(1) In GENERAL.—An advertisement by radio
2	broadcast to aid, promote, or assist, directly or indi-
3	rectly, any consumer lease shall be deemed to be in
4	compliance with the requirements of subsection (a) if
5	such advertisement clearly and conspicuously—
6	"(A) states the information required by
7	paragraphs (1) and (2) of subsection (a);
8	"(B) states the number, amounts, due dates,
9	or periods of scheduled payments, and the total
10	of such payments under the lease; and
11	"(C) includes—
12	"(i) a referral to—
13	"(I) a toll-free telephone number
14	established in accordance with para-
15	graph (2) that may be used by consum-
16	ers to obtain the information required
17	under subsection (a); or
18	"(II) a written advertisement
19	that—
20	"(aa) appears in a publica-
21	tion in general circulation in the
22	community served by the radio
23	station on which such advertise-
24	ment is broadcast during the pe-
25	riod beginning 3 days before any

1	such broadcast and ending 10
2	days after such broadcast; and
3	"(bb) includes the informa-
4	tion required to be disclosed under
5	subsection (a); and
6	"(ii) the name and dates of any publi-
7	cation referred to in clause (i)(II); and
8	"(D) includes any other information which
9	the Board determines necessary to carry out this
10	chapter.
11	"(2) Establishment of toll-free number.—
12	"(A) In GENERAL.—In the case of a radio
13	broadcast advertisement described in paragraph
14	(1) that includes a referral to a toll-free tele-
15	phone number, the lessor who offers the consumer
16	lease shall—
17	"(i) establish such a toll-free telephone
18	number not later than the date on which the
19	advertisement including the referral is
20	broadcast;
21	"(ii) maintain such telephone number
22	for not less than 10 days, beginning on the
23	date of any such broadcast; and

1	"(iii) provide the information required
2	under subsection (a) with respect to the
3	lease to any person who calls such number.
4	"(B) Form of information.—The infor-
5	mation required to be provided under subpara-
6	graph (A)(iii) shall be provided orally or, if re-
7	quested by the consumer, in written form.
8	"(3) No effect on other law.—Nothing in
9	this subsection shall affect the requirements of Federal
10	law as such requirements apply to advertisement by
11	any other medium.''.
12	SEC. 342. DEPOSIT BROKER REGISTRATION.
12 13	SEC. 342. DEPOSIT BROKER REGISTRATION.  Section 29(g)(3) of the Federal Deposit Insurance Act
13	Section 29(g)(3) of the Federal Deposit Insurance Act
13 14	Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—
13 14 15	Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—  (1) by inserting "that is not well capitalized"
13 14 15 16	Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—  (1) by inserting "that is not well capitalized" after "includes any insured depository institution";
13 14 15 16	Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—  (1) by inserting "that is not well capitalized" after "includes any insured depository institution";  (2) by striking "of any insured depository" and
113 114 115 116 117 118	Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—  (1) by inserting "that is not well capitalized" after "includes any insured depository institution";  (2) by striking "of any insured depository" and inserting "of such";
113 114 115 116 117 118 119	Section 29(g)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)(3)) is amended—  (1) by inserting "that is not well capitalized" after "includes any insured depository institution";  (2) by striking "of any insured depository" and inserting "of such";  (3) by striking "(with respect to such deposits)";

1	SEC. 343. EXTENSION OF MANAGEMENT INTERLOCKS
2	GRANDFATHER CLAUSE.
3	Subsections (a) and (b) of section 206 of the Depository
4	Institution Management Interlocks Act (12 U.S.C. 3205)
5	are each amended by striking "15 years" and inserting "20
6	years".
7	SEC. 344. CLARIFICATION OF PROVISION RELATING TO AD-
8	MINISTRATIVE AUTONOMY.
9	Section 3(b)(3) of the Home Owners' Loan Act (12
10	U.S.C. 1462a) is amended by striking everything after "Di-
11	rector" and inserting in lieu thereof "(including agency
12	rulemaking proceedings and enforcement actions) unless
13	otherwise specifically provided by law.".
14	SEC. 345. CONSUMER SURVEYS AND REPORT.
15	(a) Surveys.—Not later than 6 months after the date
16	of enactment of this Act, the Federal banking agencies (as
17	defined in section 3 of the Federal Deposit Insurance Act)
18	and the Secretary of Housing and Urban Development shall
19	jointly conduct an objective and statistically valid survey
20	of financial services consumers to determine the general
21	public awareness of, perceived benefits to consumers of, and
22	effectiveness of the Federal banking laws under which the
23	Federal banking agencies and the Department of Housing
24	and Urban Development operate that are intended for the
25	protection of such consumers, including—
26	(1) the Expedited Funds Availability Act;

1	(2) the Truth in Lending Act;	
2	(3) the Truth in Savings Act;	
3	(4) the Real Estate Settlement Procedures Act of	
4	1974;	
5	(5) the Home Mortgage Disclosure Act of 1975;	
6	(6) the Equal Credit Opportunity Act;	
7	(7) the Community Reinvestment Act of 1977;	
8	(8) the Home Equity Loan Consumer Protection	
9	Act;	
10	(9) the Fair Credit and Charge Card Disclosure	
11	Act; and	
12	(10) the rules and regulations promulgated	
13	under those banking laws.	
14	(b) Consultation.—In developing such a survey, the	
15	Federal banking agencies and the Secretary of Housing and	
16	Urban Development shall consult with consumer groups, in-	
17	sured depository institutions, other lenders, and any other	
18	interested parties.	
19	(c) Information for Surveyed Consumers.—The	
20	survey shall provide for distribution to participating con-	
21	sumers a summary explanation of the Federal banking law	
22	being surveyed and how each is currently being imple-	
23	mented.	
24	(d) Report.—Not later than 60 days after completion	
25	of its survey under subsection (a), the Federal banking	

1	agencies and the Secretary of Housing and Urban Develop-
2	ment shall jointly submit a report of the results of their
3	survey to the Committee on Banking, Housing, and Urban
4	Affairs of the Senate and the Committee on Banking, Fi-
5	nance and Urban Affairs of the House of Representatives.
6	SEC. 346. SIMPLIFIED DISCLOSURE FOR EXISTING DEPOSI-
7	TORS.
8	(a) In General.—Section 43(b)(3) of the Federal De-
9	posit Insurance Act (12 U.S.C. 1831t(b)(3)) is amended to
10	read as follows:
11	"(3) Acknowledgement of disclosure.—
12	"(A) New depositors.—With respect to
13	any depositor who was not a depositor at the de-
14	pository institution before June 19, 1994, receive
15	any deposit for the account of such depositor
16	only if the depositor has signed a written ac-
17	knowledgement that—
18	"(i) the institution is not federally in-
19	sured; and
20	"(ii) if the institution fails, the Fed-
21	eral Government does not guarantee that the
22	depositor will get back the depositor's
23	money.
24	"(B) Current depositors.—Receive any
25	deposit after the effective date of this paragraph

1	for the account of any depositor who was a de-
2	positor before June 19, 1994, only if—
3	"(i) the depositor has signed a written
4	acknowledgement described in subparagraph
5	(A); or
6	"(ii) the institution has complied with
7	the provisions of subparagraph (C) which
8	are applicable as of the date of the deposit.
9	"(C) ALTERNATIVE PROVISION OF NOTICE
10	TO CURRENT DEPOSITORS.—
11	"(i) In general.—Transmit to each
12	depositor who was a depositor before June
13	19, 1994, and has not signed a written ac-
14	knowledgement described in subparagraph
15	(A)—
16	"(I) a card containing the infor-
17	mation described in clauses (i) and (ii)
18	of subparagraph (A), and a line for the
19	signature of the depositor; and
20	"(II) accompanying materials re-
21	questing the depositor to sign the card,
22	and return the signed card to the insti-
23	tution.
24	"(ii) Manner and timing of no-
25	TICE.—

1	"(I) First notice.—Make the
2	transmission described in clause (i) via
3	first class mail within 90 days after
4	June 19, 1994.
5	"(II) Second notice.—Make a
6	2d transmission described in clause (i)
7	via first class mail not less than 30
8	days and not more than 45 days after
9	a transmission to the depositor in ac-
10	cordance with subclause (I), if the in-
11	stitution has not, by the date of such
12	mailing, received from the depositor a
13	card referred to in clause (i)(I) which
14	has been signed by the depositor.
15	"(III) Third notice.—Make a
16	3d transmission described in clause (i)
17	via first class mail not less than 30
18	days and not more than 45 days after
19	a transmission to the depositor in ac-
20	cordance with subclause (II), if the in-
21	stitution has not, by the date of such
22	mailing, received from the depositor a
23	card referred to in clause (i)(I) which
24	has been signed by the depositor.".

- 1 (b) Effective Date.—Section 43(b)(3) of the Federal
- 2 Deposit Insurance Act, as amended by subsection (a), shall
- 3 take effect in accordance with section 151(a)(2)(D) of the
- 4 Federal Deposit Insurance Corporation Improvement Act
- 5 of 1991.

## 6 SEC. 347. COMMERCIAL MORTGAGE RELATED SECURITIES.

- 7 (a) In General.—Section 3(a)(41)(A)(i) of the Secu-
- 8 rities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)(A)(i))
- 9 is amended —
- 10 (1) by striking "or on a residential" and insert-
- ing "on a residential"; and
- 12 (2) by inserting before the semicolon ", or on one
- or more parcels of real estate upon which is located
- one or more commercial structures".
- 15 (b) Amendment to the Revised Statutes.—Para-
- 16 graph Seventh of section 5136 of the Revised Statutes (12
- 17 U.S.C. 24) is amended in the twelfth sentence, by striking
- 18 "(15 U.S.C. 78c(a)(41))), subject to such regulations" and
- 19 inserting "(15 U.S.C. 78c(a)(41)). The exception provided
- 20 for the securities described in subparagraphs (A), (B), and
- 21 (C) shall be subject to such regulations".
- 22 (c) Regulations.—Not later than 1 year after the
- 23 date of enactment of this Act, the Comptroller of the Cur-
- 24 rency shall promulgate final regulations, in accordance
- 25 with the thirteenth sentence of Paragraph Seventh of section

- 1 5136 of the Revised Statutes (as amended by subsection (b)),
- 2 to carry out the amendments made by this section.
- 3 (d) Effective Date.—The amendments made by this
- 4 section shall become effective upon the date of promulgation
- 5 of final regulations under subsection (c).
- 6 (e) State Opt Out.—Notwithstanding the amend-
- 7 ments made by this section, a note that is directly secured
- 8 by a first lien on one or more parcels of real estate upon
- 9 which is located one or more commercial structures shall
- 10 not be considered to be a mortgage related security under
- 11 section 3(a)(41) of the Securities Exchange Act of 1934 in
- 12 any State that, prior to the expiration of 7 years after the
- 13 date of enactment of this Act, enacts a statute that specifi-
- 14 cally refers to this section and either prohibits or provides
- 15 for a more limited authority to purchase, hold, or invest
- 16 in such securities by any person, trust, corporation, part-
- 17 nership, association, business trust, or business entity or
- 18 class thereof than is provided by the amendments made by
- 19 this subsection. The enactment by any State of any statute
- 20 of the type described in the preceding sentence shall not af-
- 21 fect the validity of any contractual commitment to pur-
- 22 chase, hold, or invest that was made prior thereto, and shall
- 23 not require the sale or other disposition of any securities
- 24 acquired prior thereto.

## 1 SEC. 348. OFFSET OF COSTS OF CERTAIN PROGRAMS.

2	(a) HUD Multifamily Housing Disposition Proc-
3	ESS.—
4	(1) Findings.—The Congress finds that—
5	(A) the portfolio of multifamily housing
6	project mortgages insured by the FHA is severely
7	troubled and at risk of default, requiring the Sec-
8	retary to increase loss reserves from
9	\$5,500,000,000 in 1991 to \$11,900,000,000 in
10	1992 to cover estimated future losses;
11	(B) the inventory of multifamily housing
12	projects owned by the Secretary has more than
13	tripled since 1989, and, by the end of 1993, may
14	exceed 75,000 units;
15	(C) the cost to the Federal Government of
16	owning and maintaining multifamily housing
17	projects escalated to approximately \$250,000,000
18	in fiscal year 1992;
19	(D) the inventory of multifamily housing
20	projects subject to mortgages held by the Sec-
21	retary has increased dramatically, to more than
22	2,400 mortgages, and approximately half of these
23	mortgages, with over 230,000 units, are delin-
24	quent;
25	(E) the inventory of insured and formerly
26	insured multifamily housing projects is rapidly

1	deteriorating, endangering tenants and neighbor-
2	hoods;
3	(F) over 5 million families today have a
4	critical need for housing that is affordable and
5	habitable; and
6	(G) the current statutory framework govern-
7	ing the disposition of multifamily housing
8	projects effectively impedes the Government's
9	ability to dispose of properties, protect tenants,
10	and ensure that projects are maintained over
11	time.
12	(2) Management and disposition of multi-
13	FAMILY HOUSING PROJECTS.—Section 203 of the
14	Housing and Community Development Amendments
15	of 1978 (12 U.S.C. 1701z-11) is amended to read as
16	follows:
17	"SEC. 203. MANAGEMENT AND DISPOSITION OF MULTIFAM-
18	ILY HOUSING PROJECTS.
19	"(a) Goals.—The Secretary of Housing and Urban
20	Development (in this section referred to as the 'Secretary')
21	shall manage or dispose of multifamily housing projects
22	that are owned by the Secretary or that are subject to a
23	mortgage held by the Secretary in a manner that—
24	"(1) is consistent with the National Housing Act
25	and this section;

1	"(2) will protect the financial interests of the
2	Federal Government; and
3	"(3) will, in the least costly fashion among rea-
4	sonable available alternatives, further the goals of—
5	"(A) preserving housing so that it can re-
6	main available to and affordable by low-income
7	persons;
8	"(B) preserving and revitalizing residential
9	neighborhoods;
10	"(C) maintaining existing housing stock in
11	a decent, safe, and sanitary condition;
12	"(D) minimizing the involuntary displace-
13	ment of tenants;
14	"(E) maintaining housing for the purpose
15	of providing rental housing, cooperative housing,
16	and homeownership opportunities for low-income
17	persons; and
18	"(F) minimizing the need to demolish mul-
19	tifamily housing projects.
20	The Secretary, in determining the manner in which a
21	project is to be managed or disposed of, may balance com-
22	peting goals relating to individual projects in a manner
23	that will further the purposes of this section.
24	"(b) Definitions.—For purposes of this section, the
25	following definitions shall apply:

1	"(1) Multifamily housing project.—The
2	term 'multifamily housing project' means any multi-
3	family rental housing project which is, or prior to ac-
4	quisition by the Secretary was, assisted or insured
5	under the National Housing Act, or was subject to a
6	loan under section 202 of the Housing Act of 1959.
7	"(2) Subsidized project.—The term sub-
8	sidized project' means a multifamily housing project
9	receiving any of the following types of assistance im-
10	mediately prior to the assignment of the mortgage on
11	such project to, or the acquisition of such mortgage
12	by, the Secretary:
13	"(A) Below market interest rate mortgage
14	insurance under the proviso of section 221(d)(5)
15	of the National Housing Act.
16	"(B) Interest reduction payments made in
17	connection with mortgages insured under section
18	236 of the National Housing Act.
19	"(C) Direct loans made under section 202 of
20	the Housing Act of 1959.
21	"(D) Assistance in the form of—
22	"(i) rent supplement payments under
23	section 101 of the Housing and Urban De-
24	velopment Act of 1965;

1	"(ii) housing assistance payments
2	made under section 23 of the United States
3	Housing Act of 1937 (as in effect before
4	January 1, 1975); or
5	"(iii) housing assistance payments
6	made under section 8 of the United States
7	Housing Act of 1937 (excluding payments
8	made for tenant-based assistance under sec-
9	tion 8),
10	if (except for purposes of section 183(c) of the
11	Housing and Community Development Act of
12	1987) such assistance payments are made to
13	more than 50 percent of the units in the project.
14	"(3) Formerly subsidized project.—The
15	term 'formerly subsidized project' means a multifam-
16	ily housing project owned by the Secretary that was
17	a subsidized project immediately prior to its acquisi-
18	tion by the Secretary.
19	"(4) Unsubsidized project.—The term
20	'unsubsidized project' means a multifamily housing
21	project owned by the Secretary that is not a sub-
22	sidized project or a formerly subsidized project.
23	"(c) Management or Disposition of Property.—
24	"(1) Disposition to purchasers.—The Sec-
25	retary is authorized, in carrying out this section, to

1	dispose of a multifamily housing project owned by the
2	Secretary on a negotiated, competitive bid, or other
3	basis, on such terms as the Secretary deems appro-
4	priate considering the low-income character of the
5	project and the requirements of subsection (a), to a
6	purchaser determined by the Secretary to be capable
7	of—
8	"(A) satisfying the conditions of the disposi-
9	tion;
10	"(B) implementing a sound financial and
11	physical management program that is designed
12	to enable the project to meet anticipated operat-
13	ing and repair expenses to ensure that the
14	project will remain in decent, safe, and sanitary
15	condition;
16	"(C) responding to the needs of the tenants
17	and working cooperatively with tenant organiza-
18	tions;
19	"(D) providing adequate organizational
20	staff and financial resources to the project; and
21	"(E) meeting such other requirements as the
22	Secretary may determine.
23	"(2) Contracting for management serv-
24	ices.—The Secretary is authorized, in carrying out
25	this section—

1	"(A) to contract for management services
2	for a multifamily housing project that is owned
3	by the Secretary (or for which the Secretary is
4	mortgagee in possession), on a negotiated, com-
5	petitive bid, or other basis at a price determined
6	by the Secretary to be reasonable, with a man-
7	ager the Secretary has determined is capable
8	of—
9	"(i) implementing a sound financial
10	and physical management program that is
11	designed to enable the project to meet an-
12	ticipated operating and maintenance ex-
13	penses to ensure that the project will remain
14	in decent, safe, and sanitary condition;
15	"(ii) responding to the needs of the ten-
16	ants and working cooperatively with tenant
17	organizations;
18	"(iii) providing adequate organiza-
19	tional, staff, and other resources to imple-
20	ment a management program determined
21	by the Secretary; and
22	"(iv) meeting such other requirements
23	as the Secretary may determine; and
24	"(B) to require the owner of a multifamily
25	housing project that is subject to a mortgage held

1	by the Secretary to contract for management
2	services for the project in the manner described
3	in subparagraph (A).
4	"(d) Maintenance of Housing Projects.—
5	"(1) Housing projects owned by the sec-
6	RETARY.—In the case of multifamily housing projects
7	that are owned by the Secretary (or for which the Sec-
8	retary is mortgagee in possession), the Secretary
9	shall—
10	"(A) to the greatest extent possible, main-
11	tain all such occupied projects in a decent, safe,
12	and sanitary condition;
13	"(B) to the greatest extent possible, main-
14	tain full occupancy in all such projects; and
15	"(C) maintain all such projects for purposes
16	of providing rental or cooperative housing.
17	"(2) Housing projects subject to a mort-
18	GAGE HELD BY THE SECRETARY.—In the case of any
19	multifamily housing project that is subject to a mort-
20	gage held by the Secretary, the Secretary shall require
21	the owner of the project to carry out the requirements
22	of paragraph (1).
23	"(e) Required Assistance.—In carrying out the
24	goal specified in subsection (a)(3)(A), the Secretary shall
25	take not less than one of the following actions:

1	"(1) Contract with owner.—Enter into con-
2	tracts under section 8 of the United States Housing
3	Act of 1937, to the extent budget authority is avail-
4	able, with owners of multifamily housing projects that
5	are acquired by a purchaser other than the Secretary
6	at foreclosure or after sale by the Secretary.
7	"(A) Subsidized or formerly sub-
8	SIDIZED PROJECTS RECEIVING CERTAIN ASSIST-
9	ANCE.—In the case of a subsidized or formerly
10	subsidized project referred to in subparagraphs
11	(A) through (C) of subsection (b) $(2)$ —
12	"(i) the contract shall be sufficient to
13	assist at least all units covered by an assist-
14	ance contract under any of the authorities
15	referred to in subsection $(b)(2)(D)$ before ac-
16	quisition, unless the Secretary acts pursu-
17	ant to the provisions of subparagraph (C);
18	"(ii) in the case of units requiring
19	project-based rental assistance pursuant to
20	this paragraph that are occupied by fami-
21	lies who are not eligible for assistance under
22	section 8, a contract under this subpara-
23	graph shall also provide that when a va-
24	cancy occurs, the owner shall lease the

1	available unit to a family eligible for assist-
2	ance under section 8; and
3	"(iii) the Secretary shall take actions
4	to ensure the availability and affordability,
5	as defined in paragraph (3)(B), for the re-
6	maining useful life of the project, as defined
7	by the Secretary, of any unit located in any
8	project referred to in subparagraphs (A)
9	through (C) of subsection (b)(2) that does
10	not otherwise receive project-based assist-
11	ance under this subparagraph. To carry out
12	this clause, the Secretary may require pur-
13	chasers to establish use or rent restrictions
14	maintaining affordability, as defined in
15	paragraph (3)(B).
16	"(B) Subsidized or formerly sub-
17	SIDIZED PROJECTS RECEIVING OTHER ASSIST-
18	ANCE.—In the case of a subsidized or formerly
19	subsidized project referred to in subsection
20	(b)(2)(D)—
21	"(i) the contract shall be sufficient to
22	assist at least all units in the project that
23	are covered, or were covered immediately be-
24	fore foreclosure on or acquisition of the
25	project by the Secretary, by an assistance

1	contract under any of the authorities re-
2	ferred to in such subsection, unless the Sec-
3	retary acts pursuant to provisions of sub-
4	paragraph (C); and
5	"(ii) in the case of units requiring
6	project-based rental assistance pursuant to
7	this paragraph that are occupied by fami-
8	lies who are not eligible for assistance under
9	section 8, a contract under this paragraph
10	shall also provide that when a vacancy oc-
11	curs, the owner shall lease the available unit
12	to a family eligible for assistance under sec-
13	tion 8.
14	"(C) Exceptions to subparagraphs (a)
15	AND (B).—In lieu of providing project-based as-
16	sistance under subparagraph (A) or (B), the Sec-
17	retary may require certain units in unsubsidized
18	projects to contain use restrictions providing
19	that such units will be available to and afford-
20	able by very low-income families for the remain-
21	ing useful life of the project, as defined by the
22	Secretary, if—
23	"(i) the Secretary matches any reduc-
24	tion in units otherwise required to be as-
25	sisted with project-based assistance under

1	subparagraph (A) or (B) with at least an
2	equivalent increase in units made affordable
3	to very low-income persons within
4	unsubsidized projects;
5	''(ii) low-income tenants residing in
6	units otherwise requiring project-based as-
7	sistance under subparagraph (A) or (B)
8	upon disposition receive section 8 tenant-
9	based assistance; and
10	"(iii) the units described in clause (i)
11	are located within the same market area.
12	"(D) Contract requirements for
13	UNSUBSIDIZED PROJECTS.—Notwithstanding ac-
14	tions taken pursuant to subparagraph (C), in
15	unsubsidized projects, the contract shall at least
16	be sufficient to provide—
17	"(i) project-based rental assistance for
18	all units that are covered or were covered
19	immediately before foreclosure or acquisi-
20	tion by an assistance contract under—
21	"(I) section $8(b)(2)$ of the United
22	States Housing Act of 1937 (as such
23	section existed before October 1, 1983)
24	(new construction and substantial re-
25	habilitation); section 8(b) of such Act

1	(property disposition); section $8(d)(2)$
2	of such Act (project-based certificates);
3	section 8(e)(2) of such Act (moderate
4	rehabilitation); section 23 of such Act
5	(as in effect before January 1, 1975);
6	or section 101 of the Housing and
7	Urban Development Act of 1965 (rent
8	supplements); or
9	"(II) section 8 of the United
10	States Housing Act of 1937, following
11	conversion from section 101 of the
12	Housing and Urban Development Act
13	of 1965; and
14	"(ii) tenant-based assistance under sec-
15	tion 8 of the United States Housing Act of
16	1937 for tenants currently residing in units
17	that were covered by an assistance contract
18	under the Loan Management Set-Aside pro-
19	gram under section 8(b) of the United
20	States Housing Act of 1937 immediately be-
21	fore foreclosure or acquisition of the project
22	by the Secretary.
23	"(2) Annual contribution contracts.—In
24	the case of multifamily housing projects that are ac-
25	quired by a purchaser other than the Secretary at

foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to all low-income families who are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for low-income families. Actions taken pursuant to this paragraph may be taken in connection with not more than 10 percent of the aggregate number of units in subsidized or formerly subsidized projects disposed of by the Secretary annually.

## "(3) OTHER ASSISTANCE.—

"(A) In General.—In accordance with the authority provided under the National Housing Act, reduce the selling price, apply use or rent restrictions on certain units, or provide other financial assistance to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms which will ensure that—

1	"(i) at least those units otherwise re-
2	quired to receive project-based section 8 as-
3	sistance pursuant to subparagraphs (A),
4	(B), or (D) of paragraph (1) are available
5	to and affordable by low-income persons;
6	and
7	"(ii) for the remaining useful life of
8	the project, as defined by the Secretary,
9	there shall be in force such use or rent re-
10	strictions as the Secretary may prescribe.
11	"(B) Definition.—A unit shall be consid-
12	ered affordable under this paragraph if—
13	"(i) for very low-income tenants, the
14	rent for such unit does not exceed 30 per-
15	cent of 50 percent of the area median in-
16	come, as determined by the Secretary, with
17	adjustments for family size; and
18	"(ii) for low-income tenants other than
19	very low-income tenants, the rent for such
20	unit does not exceed 30 percent of 80 per-
21	cent of the area median income, as deter-
22	mined by the Secretary, with adjustments
23	for family size.
24	"(C) Very Low-income tenants.—The
25	Secretary shall provide assistance under section

1	8 of the United States Housing Act of 1937 to
2	any very low-income tenant currently residing
3	in a unit otherwise required to receive project-
4	based assistance under section 8, pursuant to
5	subparagraph (A), (B), or (D) of paragraph (1),
6	if the rents charged such tenants as a result of
7	actions taken pursuant to this paragraph exceed
8	the amount payable as rent under section 3(a) of
9	the United States Housing Act of 1937.
10	"(4) Transfer for use under other pro-
11	GRAMS OF THE SECRETARY.—
12	"(A) In general.—Enter into an agree-
13	ment providing for the transfer of a multifamily
14	housing project—
15	"(i) to a public housing agency for use
16	of the project as public housing; or
17	"(ii) to an owner or another appro-
18	priate entity for use of the project under
19	section 202 of the Housing Act of 1959 or
20	under section 811 of the Cranston-Gonzalez
21	National Affordable Housing Act.
22	"(B) Requirements for agreement.—
23	The agreement described in subparagraph (A)
24	shall—

1	"(i) contain such terms, conditions,
2	and limitations as the Secretary determines
3	appropriate, including requirements to as-
4	sure use of the project under the public
5	housing, section 202, and section 811 pro-
6	grams; and
7	"(ii) ensure that no current tenant will
8	be displaced as a result of actions taken
9	under this paragraph.
10	"(f) OTHER ASSISTANCE.—In addition to the actions
11	authorized by subsection (e), the Secretary may take any
12	of the following actions:
13	"(1) Short-term loans.—Provide short-term
14	loans to facilitate the sale of multifamily housing
15	projects to nonprofit organizations or to public agen-
16	cies if—
17	"(A) authority for such loans is provided in
18	advance in an appropriations Act;
19	"(B) such loans are for a term of not more
20	than 5 years;
21	"(C) the Secretary is presented with satis-
22	factory documentation, evidencing a commitment
23	of permanent financing to replace such short-
24	term loan, from a lender who meets standards set
25	forth by the Secretary; and

1	"(D) the terms of such loans are consistent
2	with prevailing practices in the marketplace or
3	the provision of such loans results in no cost to
4	the Government, as defined in section 502 of the
5	Congressional Budget Act.
6	"(2) Tenant-based assistance.—In connec-
7	tion with projects referred to in subsection (e), make
8	available tenant-based assistance under section 8 of
9	the United States Housing Act of 1937 to very low-
10	income families (as defined in section 3(b)(2) of the
11	United States Housing Act of 1937) that do not other-
12	wise qualify for project-based assistance.
13	"(3) Alternative uses.—
14	"(A) In general.—Notwithstanding any
15	other provision of law, and subject to notice to
16	and comment from existing tenants, allow not
17	more than—
18	"(i) 5 percent of the total number of
19	units in multifamily housing projects that
20	are disposed of by the Secretary during any
21	1-year period to be made available for uses
22	other than rental or cooperative uses, in-
23	cluding low-income homeownership oppor-
24	tunities, or in any particular project, com-

munity space, office space for tenant or

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housing-related service providers or security 1 2 programs, or small business uses, if such uses benefit the tenants of the project; and 3 "(ii) 5 percent of the total number of 4 units in multifamily housing projects that 5 are disposed of by the Secretary during any 6 7 1-year period to be used in any manner, if the Secretary and the unit of general local 8 9 government or area-wide governing body determine that such use will further fair hous-10 ing, community development, or neighbor-11 hood revitalization goals. 12 13 DISPLACEMENT PROTECTION.—The Secretary shall make available tenant-based rent-14 al assistance under section 8 of the United States 15 Housing Act of 1937 to any tenant displaced as 16 17 a result of actions taken by the Secretary pursu-18 ant to subparagraph (A), and the Secretary shall 19 take such actions as the Secretary determines 20 necessary to ensure the successful use of any tenant-based assistance. 21 22 "(g) Authorization of Use or Rent Restrictions IN Unsubsidized Projects.—In carrying out the goals specified in subsection (a), the Secretary may require certain units in unsubsidized projects to contain use or rent

1	restrictions providing that such units will be available to
2	and affordable by very low-income persons for the remain-
3	ing useful life of the property, as defined by the Secretary.
4	"(h) Contract Requirements.—
5	"(1) Contract term.—
6	"(A) In General.—Contracts for project-
7	based rental assistance under section 8 of the
8	United States Housing Act of 1937 provided
9	pursuant to this section shall be for a term of not
10	more than 15 years; and
11	"(B) Contract term of less than 15
12	YEARS.—Notwithstanding subparagraph (A), to
13	the extent that units receive project-based assist-
14	ance for a contract term of less than 15 years,
15	the Secretary shall require that rents charged to
16	tenants for such units not exceed the amount
17	payable for rent under section 3(a) of the United
18	States Housing Act of 1937 for a period of at
19	least 15 years.
20	"(2) Contract rent.—
21	"(A) In general.—The Secretary shall set
22	contract rents for section 8 project-based rental
23	contracts issued under this section at levels that,
24	in conjunction with other resources available to
25	the purchaser, provide for the necessary costs of

1	rehabilitation of such project and do not exceed
2	the percentage of the existing housing fair mar-
3	ket rents for the area (as determined by the Sec-
4	retary under section 8(c) of the United States
5	Housing Act of 1937) as the Secretary may pre-
6	scribe.
7	"(B) Up-front grants and loans.—If
8	such an approach is determined to be more cost-
9	effective, the Secretary may utilize the budget
10	authority provided for project-based section 8
11	contracts issued under this section to—
12	"(i) provide project-based section 8
13	rental assistance; and
14	"(ii)(I) provide up-front grants for the
15	necessary cost of rehabilitation; or
16	"(II) pay for any cost to the Govern-
17	ment, as defined in section 502 of the Con-
18	gressional Budget Act, for loans made pur-
19	suant to subsection (f)(1).
20	"(i) Disposition Plan.—
21	"(1) In general.—Prior to the sale of a multi-
22	family housing project that is owned by the Secretary,
23	the Secretary shall develop a disposition plan for the
24	project that specifies the minimum terms and condi-
25	tions of the Secretary for disposition of the project,

1	the initial sales price that is acceptable to the Sec-
2	retary, and the assistance that the Secretary plans to
3	make available to a prospective purchaser in accord-
4	ance with this section. The initial sales price shall re-
5	flect the intended use of the property after sale.
6	"(2) Community and tenant input into dis-
7	POSITION PLANS AND SALES.—
8	"(A) In general.—In carrying out this
9	section, the Secretary shall develop procedures to
10	obtain appropriate and timely input into dis-
11	position plans from officials of the unit of gen-
12	eral local government affected, the community in
13	which the project is situated, and the tenants of
14	the project.
15	"(B) Tenant organizations.—The Sec-
16	retary shall develop procedures to facilitate,
17	where feasible and appropriate, the sale of multi-
18	family housing projects to existing tenant orga-
19	nizations with demonstrated capacity or to pub-
20	lic or nonprofit entities which represent or are
21	affiliated with existing tenant organizations.
22	"(C) Technical assistance.—
23	"(i) Use of funds.—To carry out the
24	procedures developed under subparagraphs
25	(A) and (B), the Secretary is authorized to

1	provide technical assistance, directly or in-
2	directly, and to use amounts appropriated
3	for technical assistance under the Emer-
4	gency Low Income Housing Preservation
5	Act of 1987, the Low-Income Housing Pres-
6	ervation and Resident Homeownership Act
7	of 1990, subtitle B of title IV of the Cran-
8	ston-Gonzalez National Affordable Housing
9	Act, or under this section for the provision
10	of technical assistance under this section.
11	"(ii) Source of funds.—Recipients
12	of technical assistance funding under the
13	Emergency Low Income Housing Preserva-
14	tion Act of 1987, the Low-Income Housing
15	Preservation and Resident Homeownership
16	Act of 1990, subtitle B of title IV of the
17	Cranston-Gonzalez National Affordable
18	Housing Act, or under this section shall be
19	permitted to provide technical assistance to
20	the extent of such funding under any of
21	such programs or under this section, not-
22	withstanding the source of funding.
23	"(j) Right of First Refusal.—
24	"(1) Procedure.—

"(A) Notification by Secretary of the Acquisition of title.—Not later than 30 days after acquiring title to a project, the Secretary shall notify the unit of general local government and the State agency or agencies designated by the Governor of the acquisition of such title.

"(B) Expression of interest.—Not later than 45 days after receiving notification from the Secretary under subparagraph (A), the unit of general local government or designated State agency may submit to the Secretary a preliminary expression of interest in the project. The Secretary may take such actions as may be necessary to require the unit of general local government or designated State agency to substantiate such interest.

"(C) Timely expression of interest.—

If the unit of general local government or designated State agency has expressed interest in the project before the expiration of the 45-day period referred to in subparagraph (B), and has substantiated such interest if requested, the Secretary, upon approval of a disposition plan for a project, shall notify the unit of general local government and designated State agency of the

terms and conditions of the disposition plan and give the unit of general local government or designated State agency not more than 90 days after the date of such notification to make an offer to purchase the project.

"(D) No timely expression of interest.—If the unit of general local government or designated State agency does not express interest before the expiration of the 45-day period referred to in subparagraph (B), or does not substantiate an expressed interest if requested, the Secretary, upon approval of a disposition plan, may offer the project for sale to any interested person or entity.

"(2) Acceptance of offers.—Where the Secretary has given the unit of general local government or designated State agency 90 days to make an offer to purchase the project, the Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the goals specified in subsection (a) by actions that include extension of the duration of low-income affordability restrictions or

1 otherwise restructuring the transaction in a manner 2 that enhances the long-term affordability for low-income persons. The Secretary shall, in particular, have 3 discretion to reduce the initial sales price in exchange 5 for the extension of low-income affordability restrictions beyond the period of assistance contemplated by 6 7 the attachment of assistance pursuant to subsection (e). If the Secretary and the unit of general local gov-8 9 ernment or designated State agency cannot reach agreement within 90 days, the Secretary may offer 10 11 the project for sale to the general public.

- "(3) Purchase by unit of general local government or designated state agency.—Not-withstanding any other provision of law, a unit of general local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.
- "(4) Applicability.—This subsection shall apply to projects that are acquired on or after the effective date of this subsection. With respect to projects acquired before such effective date, the Secretary may apply—
- 24 "(A) the requirements of paragraphs (2) 25 and (3) of section 203(e) as such paragraphs ex-

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1	isted immediately before the effective date of this
2	subsection; or
3	"(B) the requirements of paragraphs (1)
4	and (2) of this subsection, if the Secretary gives
5	the unit of general local government or des-
6	ignated State agency—
7	"(i) 45 days to express interest in the
8	project; and
9	"(ii) if the unit of general local govern-
10	ment or designated State agency expresses
11	interest in the project before the expiration
12	of the 45-day period, and substantiates such
13	interest if requested, 90 days from the date
14	of notification of the terms and conditions
15	of the disposition plan to make an offer to
16	purchase the project.
17	"(k) Displacement of Tenants and Relocation
18	Assistance.—
19	"(1) In General.—Whenever tenants will be
20	displaced as a result of the disposition of, or repairs
21	to, a multifamily housing project that is owned by the
22	Secretary (or for which the Secretary is mortgagee in
23	possession), the Secretary shall identify tenants who
24	will be displaced, and shall notify all such tenants of
25	their pending displacement and of any relocation as-

1	sistance which may be available. In the case of a mul-
2	tifamily housing project that is not owned by the Sec-
3	retary (and for which the Secretary is not mortgagee
4	in possession), the Secretary shall require the owner
5	of the project to carry out the requirements of this
6	paragraph.
7	"(2) Rights of displaced tenants.—The Sec-
8	retary shall assure for any such tenant (who contin-
9	ues to meet applicable qualification standards) the
10	right—
11	"(A) to return, whenever possible, to a re-
12	paired unit;
13	"(B) to occupy a unit in another multifam-
14	ily housing project owned by the Secretary;
15	"(C) to obtain housing assistance under the
16	United States Housing Act of 1937; or
17	"(D) to receive any other available reloca-
18	tion assistance as the Secretary determines to be
19	appropriate.
20	"(l) Mortgage and Project Sales.—
21	"(1) In general.—The Secretary may not ap-
22	prove the sale of any loan or mortgage held by the
23	Secretary (including any loan or mortgage owned by
24	the Government National Mortgage Association) on
25	any subsidized project or formerly subsidized project.

unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

- "(2) Sale of certain projects.—The Secretary may not approve the sale of any subsidized project—
  - "(A) that is subject to a mortgage held by the Secretary; or

"(B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed
 sale of the project.

"(3) Mortgage sales to state and local government or State agencies, except that—

"(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regu-

1	latory agreement or other program requirements
2	applicable to the related projects; and
3	"(B) the sales prices for such mortgages
4	shall be, in the determination of the Secretary,
5	the best prices that may be obtained for such
6	mortgages from a unit of general local govern-
7	ment or State agency, consistent with the expec-
8	tation and intention that the projects financed
9	will be retained for use under the applicable
10	mortgage insurance program for the life of the
11	initial mortgage insurance contract.
12	"(4) SALE OF MORTGAGES COVERING
13	UNSUBSIDIZED PROJECTS.—Notwithstanding any
14	other provision of law, the Secretary may sell mort-
15	gages held on unsubsidized projects on such terms and
16	conditions as the Secretary may prescribe.
17	"(m) Report to Congress.—Not later than June 1
18	of each year, the Secretary shall submit to the Committee
19	on Banking, Housing, and Urban Affairs of the Senate and
20	the Committee on Banking, Finance and Urban Affairs of
21	the House of Representatives, a report describing the status
22	of multifamily housing projects owned by or subject to mort-
23	gages held by the Secretary, which report shall include—
24	"(1) the name, address, and size of each project;
25	"(2) the nature and date of assignment;

1	"(3) the status of the mortgage;
2	"(4) the physical condition of the project;
3	"(5) an occupancy profile of the project, includ-
4	ing the income, family size, and race of current resi-
5	dents as well as the rents paid by such residents;
6	"(6) the proportion of units in a project that are
7	vacant;
8	"(7) the date on which the Secretary became
9	mortgagee in possession;
10	"(8) the date and conditions of any foreclosure
11	sale;
12	"(9) the date of acquisition by the Secretary;
13	"(10) the date and conditions of any property
14	disposition sale;
15	"(11) a description of actions undertaken pursu-
16	ant to this section, including—
17	"(A) a comparison of results between ac-
18	tions taken after enactment of the Housing and
19	Community Development Act of 1993 and ac-
20	tions taken in years prior to such enactment;
21	"(B) a description of any impediments to
22	the disposition or management of multifamily
23	housing projects, together with a recommenda-
24	tion of proposed legislative or regulatory changes
25	designed to ameliorate such impediments;

1	"(C) a description of actions taken to re-
2	structure or commence foreclosure on delinquent
3	multifamily mortgages held by the Department;
4	and
5	"(D) a description of actions taken to mon-
6	itor and prevent the default of multifamily hous-
7	ing mortgages held by the Federal Housing Ad-
8	ministration;
9	"(12) a description of any of the functions per-
10	formed in connection with this section that are con-
11	tracted out to public or private entities or to States,
12	including—
13	"(A) the costs associated with such delega-
14	tion;
15	"(B) the implications of contracting out or
16	delegating such functions for current Department
17	field or regional personnel, including anticipated
18	personnel or work load reductions;
19	"(C) necessary oversight required by De-
20	partment personnel, including anticipated per-
21	sonnel hours devoted to such oversight;
22	"(D) a description of any authority granted
23	to such public or private entities or States in
24	conjunction with the functions that have been
25	delegated or contracted out or that are not other-

1	wise available for use by Department personnel;
2	and
3	"(E) the extent to which such public or pri-
4	vate entities or States include tenants of multi-
5	family housing projects in the disposition plan-
6	ning for such projects;
7	"(13) a description of the activities carried out
8	under subsection (j) during the preceding year; and
9	"(14) a description and assessment of the rules,
10	guidelines, and practices governing the Department's
11	management of multifamily housing projects that are
12	owned by the Secretary (or for which the Secretary is
13	mortgagee in possession) as well as the steps that the
14	Secretary has taken or plans to take to improve the
15	management performance of the Department.''.
16	(3) Effective date.—The Secretary shall, by
17	notice published in the Federal Register, which shall
18	take effect upon publication, establish such require-
19	ments as may be necessary to implement the amend-
20	ments made by this subsection. The notice shall invite
21	public comments, and the Secretary shall issue final
22	regulations based on the initial notice, taking into ac-
23	count any public comments received.

1	(b) Repeal of the National Small Business
2	Tree Planting Program.—Section 24 of the Small Busi-
3	ness Act (15 U.S.C. 651) is repealed.
4	TITLE IV—MONEY LAUNDERING
5	SEC. 401. SHORT TITLE.
6	This title may be cited as the "Money Laundering
7	Suppression Act of 1994".
8	SEC. 402. REFORM OF CTR EXEMPTION REQUIREMENTS TO
9	REDUCE NUMBER AND SIZE OF REPORTS
10	CONSISTENT WITH EFFECTIVE LAW EN-
11	FORCEMENT.
12	(a) In General.—Section 5313 of title 31, United
13	States Code, is amended by adding at the end the following
14	new subsections:
15	"(d) Mandatory Exemptions From Reporting Re-
16	QUIREMENTS.—
17	"(1) In general.—The Secretary of the Treas-
18	ury shall exempt, pursuant to section 5318(a)(5), a
19	depository institution from the reporting require-
20	ments of subsection (a) (and regulations prescribed
21	under such subsection) with respect to transactions
22	between the depository institution and the following
23	categories of entities:
24	"(A) Another depository institution.

1	"(B) A department or agency of the United
2	States, any State, or any political subdivision of
3	any State, including any entity established
4	under the laws of the United States, any State,
5	or any political subdivision of any State, or
6	under an interstate compact between 2 or more
7	States, which exercises governmental authority
8	on behalf of the United States, the State, or the
9	political subdivision.
10	"(C) Any business or category of business
11	the reports on which have little or no value for
12	law enforcement purposes.
13	"(2) Notice of exemption.—The Secretary of
14	the Treasury shall publish in the Federal Register at
15	such times as the Secretary determines to be appro-
16	priate (but not less frequently than once during each
17	year) a list of all the entities whose transactions with
18	a depository institution are exempt under this sub-
19	section from the reporting requirements of subsection
20	(a) (and regulations prescribed under such sub-
21	section).
22	"(e) Discretionary Exemptions From Reporting
23	Requirements.—
24	"(1) In general.—The Secretary of the Treas-
25	ury may exempt, pursuant to section 5318(a)(5), a

1	depository institution from the reporting require-
2	ments of subsection (a) (and regulations prescribed
3	under such subsection) with respect to transactions
4	between the depository institution and a qualified
5	business customer of the institution on the basis of in-
6	formation submitted to the Secretary by the institu-
7	tion in accordance with procedures which the Sec-
8	retary shall establish.
9	"(2) Qualified business customer de-
10	Fined.—For purposes of this subsection, the term
11	'qualified business customer' means a business
12	which—
13	"(A) maintains a transaction account (as
14	defined in section $19(b)(1)(C)$ of the Federal Re-
15	serve Act) at the depository institution;
16	"(B) frequently engages in transactions
17	with the depository institution which are subject
18	to the reporting requirements of subsection (a)
19	(and regulations prescribed under such sub-
20	section); and
21	"(C) meets criteria which the Secretary de-
22	termines are sufficient to ensure that the pur-
23	poses of this subchapter are carried out without
24	requiring a report with respect to such trans-
25	actions.

1	"(3) Criteria for exemption.—The Secretary
2	of the Treasury shall establish, by regulation, the cri-
3	teria for granting and maintaining an exemption
4	under paragraph (1).
5	"(4) GUIDELINES.—
6	"(A) In general.—The Secretary of the
7	Treasury shall establish guidelines for depository
8	institutions to follow in selecting customers for
9	an exemption under this subsection.
10	"(B) Contents.—The guidelines may in-
11	clude a description of the types of businesses or
12	an itemization of specific businesses for which no
13	exemption will be granted under this subsection
14	to any depository institution.
15	"(5) Annual review.—The Secretary of the
16	Treasury shall prescribe regulations requiring each
17	depository institution to—
18	"(A) review, at least once during each year,
19	the qualified business customers of such institu-
20	tion with respect to whom an exemption has been
21	granted under this subsection; and
22	"(B) upon the completion of such review, re-
23	submit information about such customers, with
24	such modifications as the institution determines

1	to be appropriate, to the Secretary for the Sec-
2	retary's approval.
3	"(6) 2-year phase-in provision.—During the
4	2-year period beginning on the date of enactment of
5	the Money Laundering Suppression Act of 1994, this
6	subsection shall be applied by the Secretary on the
7	basis of such criteria as the Secretary determines to
8	be appropriate to achieve an orderly implementation
9	of the requirements of this subsection.
10	"(f) Provisions Applicable to Mandatory and
11	Discretionary Exemptions.—
12	"(1) Limitation on liability of depository
13	INSTITUTIONS.—No depository institution shall be
14	subject to any penalty which may be imposed under
15	this subchapter for the failure of the institution to file
16	a report with respect to a transaction with a cus-
17	tomer for whom an exemption has been granted under
18	subsection (d) or (e), unless the institution—
19	"(A) knowingly files false or incomplete in-
20	formation to the Secretary with respect to the
21	transaction or the customer engaging in the
22	transaction; or
23	"(B) has reason to believe at the time the
24	exemption is granted or the transaction is en-
25	tered into that the customer or the transaction

1	does not meet the criteria established for grant-
2	ing such exemption.
3	"(2) Coordination with other provisions.—
4	Any exemption granted by the Secretary of the Treas-
5	ury under section 5318(a) in accordance with this
6	section, and any transaction which is subject to such
7	exemption, shall be subject to any other provision of
8	law applicable to such exemption, including—
9	"(A) the authority of the Secretary, under
10	section 5318(a)(5), to revoke such exemption at
11	any time; and
12	"(B) any requirement to report, or any au-
13	thority to require a report on, any possible viola-
14	tion of any law or regulation or any suspected
15	criminal activity.
16	"(g) Depository Institution Defined.—For pur-
17	poses of this section, the term 'depository institution' has
18	the meaning given to such term in section 19(b)(1)(A) of
19	the Federal Reserve Act.''.
20	(b) Report Reduction Goal; Reports.—
21	(1) In GENERAL.—In implementing the amend-
22	ment made by subsection (a), the Secretary of the
23	Treasury shall seek to reduce, within a reasonable pe-
24	riod of time, the number of reports required to be filed
25	in the aggregate by depository institutions pursuant

- to section 5313(a) of title 31, United States Code, by 1 2 not less than 30 percent of the number filed during the year preceding the date of enactment of this Act. 3
- (2) Interim report.—The Secretary of the Treasury shall submit a report to the Congress not 5 later than the end of the 180-day period beginning on 6 the date of enactment of this Act on the progress made 7 by the Secretary in implementing the amendment 8 made by subsection (a). 9
- (3) Annual report.—The Secretary of the Treasury shall submit an annual report to the Congress after the end of each of the first 5 calendar years which begin after the date of enactment of this Act on the extent to which the Secretary has reduced the overall number of currency transaction reports required to be filed with the Secretary pursuant to sec-16 tion 5313(a) of title 31, United States Code, consistently with the purposes of such section and effective law enforcement.
- 20 Streamlined Currency TRANSACTION PORTS.—The Secretary of the Treasury shall take such ac-21 22 tion as may be appropriate to redesign the format of reports required to be filed by any financial institution (as defined 23 in section 5312(a)(2) of title 31, United States Code) under section 5313(a) of title 31. United States Code, to eliminate

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1	the need to report information which has little or no value
2	for law enforcement purposes and reduce the time and effort
3	required to prepare such report for filing by any such fi-
4	nancial institution under such section.
5	SEC. 403. SINGLE DESIGNEE FOR REPORTING OF SUS-
6	PICIOUS TRANSACTIONS.
7	(a) In General.—Section 5318(g) of title 31, United
8	States Code, is amended by adding at the end the following
9	new paragraph:
10	"(4) Single designee for reporting sus-
11	PICIOUS TRANSACTIONS.—
12	"(A) In general.—In requiring reports
13	under paragraph (1) of suspicious transactions,
14	the Secretary of the Treasury shall designate, to
15	the extent practicable and appropriate, a single
16	officer or agency of the United States to whom
17	such reports shall be made.
18	"(B) Duty of designee.—The officer or
19	agency of the United States designated by the
20	Secretary of the Treasury pursuant to subpara-
21	graph (A) shall refer any report of a suspicious
22	transaction to the appropriate law enforcement
23	or supervisory agency.
24	"(C) Coordination with other report-
25	ING REQUIREMENTS.—Subparagraph (A) shall

not be construed as precluding any supervisory
agency for any financial institution from requiring the financial institution to submit any information or report to the agency or another agency
pursuant to any provision of law other than this
subsection.

## "(D) REPORTS.—

"(i) REPORTS REQUIRED.—The Secretary of the Treasury shall submit an annual report to the Congress at the times required under clause (ii) on the number of suspicious transactions reported to the officer or agency designated under subparagraph (A) during the period covered by the report and the disposition of such reports.

"(ii) Time for submitting rePORTS.—The first report required under
clause (i) shall be filed before the end of the
1-year period beginning on the date of enactment of the Money Laundering Suppression Act of 1994, and each subsequent report shall be filed, not later than 90 days
after the end of each of the 5 calendar years
which begin after such date of enactment."

1	(b) Designation Required To Be Made Expedi-
2	TIOUSLY.—The initial designation of an officer or agency
3	of the United States pursuant to the amendment made by
4	subsection (a) shall be made before the end of the 180-day
5	period beginning on the date of enactment of this Act.
6	SEC. 404. IMPROVEMENT OF IDENTIFICATION OF MONEY
7	LAUNDERING SCHEMES.
8	(a) Enhanced Training, Examinations, and Re-
9	FERRALS BY BANKING AGENCIES.—Before the end of the 6-
10	month period beginning on the date of enactment of this
11	Act, each appropriate Federal banking agency shall, in con-
12	sultation with the Secretary of the Treasury and other ap-
13	propriate law enforcement agencies—
14	(1) review and enhance training and examina-
15	tion procedures to improve the identification of
16	money laundering schemes involving depository insti-
17	tutions; and
18	(2) review and enhance procedures for referring
19	cases to any other appropriate law enforcement agen-
20	cy.
21	(b) Improved Reporting of Criminal Schemes by
22	Law Enforcement Agencies.—The Secretary of the
23	Treasury and each appropriate law enforcement agency
24	shall, on a regular basis, provide information regarding
25	money laundering schemes and activities involving deposi-

1	tory institutions to each appropriate Federal banking agen-
2	cy to enhance the agency's ability to examine for and iden-
3	tify money laundering.
4	(c) Report to Congress.—Not later than 1 year
5	after the date of enactment of this Act, the Federal banking
6	agencies shall jointly submit a report to the Congress on
7	the progress made in carrying out subsection (a) and the
8	usefulness of information received pursuant to subsection
9	(b).
10	(d) Definitions.—The terms "appropriate Federal
11	banking agency" and "Federal banking agencies" have the
12	same meanings as in section 3 of the Federal Deposit Insur-
13	ance Act.
14	SEC. 405. NEGOTIABLE INSTRUMENTS DRAWN ON FOREIGN
15	BANKS SUBJECT TO RECORDKEEPING AND
16	REPORTING REQUIREMENTS.
16 17	REPORTING REQUIREMENTS.  Section 5312(a)(3) of title 31, United States Code, is
17	
17	Section 5312(a)(3) of title 31, United States Code, is
17 18	Section 5312(a)(3) of title 31, United States Code, is amended—
17 18 19	Section 5312(a)(3) of title 31, United States Code, is amended—  (1) by striking "and" at the end of subpara-
17 18 19 20	Section 5312(a)(3) of title 31, United States Code, is amended—  (1) by striking "and" at the end of subparagraph (A);
17 18 19 20 21	Section 5312(a)(3) of title 31, United States Code, is amended—  (1) by striking "and" at the end of subparagraph (A);  (2) by striking the period at the end of subpara-

1	"(C) as the Secretary of the Treasury shall
2	provide by regulation for purposes of section
3	5316, checks, drafts, notes, money orders, and
4	other similar instruments which are drawn on or
5	by a foreign financial institution and are not in
6	bearer form.''.
7	SEC. 406. IMPOSITION OF CIVIL MONEY PENALTIES BY AP-
8	PROPRIATE FEDERAL BANKING AGENCIES.
9	Section 5321 of title 31, United States Code, is amend-
10	ed by adding at the end the following new subsection:
11	"(e) Delegation of Assessment Authority to
12	Banking Agencies.—
13	"(1) In General.—The Secretary of the Treas-
14	ury shall delegate, in accordance with section
15	5318(a)(1), and subject to such terms and conditions
16	as the Secretary may impose in accordance with
17	paragraph (3), any authority of the Secretary to as-
18	sess a civil money penalty under this section on de-
19	pository institutions to the appropriate Federal bank-
20	ing agencies.
21	"(2) Authority of agencies.—Subject to any
22	term or condition imposed by the Secretary of the
23	Treasury under paragraph (3), the provisions of this
24	section shall apply to an appropriate Federal banking
25	agency to which is delegated any authority of the Sec-

1	retary under this section in the same manner such
2	provisions apply to the Secretary.
3	"(3) Terms and conditions.—
4	"(A) In general.—The Secretary of the
5	Treasury shall prescribe by regulation the terms
6	and conditions which shall apply to any delega-
7	tion under paragraph (1).
8	"(B) Maximum dollar amount.—The
9	terms and conditions authorized under subpara-
10	graph (A) may include, in the Secretary's sole
11	discretion, a limitation on the amount of any
12	civil penalty which may be assessed by an ap-
13	propriate Federal banking agency pursuant to a
14	delegation under paragraph (1).
15	"(4) Definitions.—For purposes of this sub-
16	section, the terms 'depository institution' and 'Federal
17	banking agencies' have the same meanings as in sec-
18	tion 3 of the Federal Deposit Insurance Act.".
19	SEC. 407. UNIFORM STATE LICENSING AND REGULATION OF
20	CHECK CASHING, CURRENCY EXCHANGE, AND
21	MONEY TRANSMITTING BUSINESSES.
22	(a) Uniform Laws and Enforcement.—For pur-
23	poses of preventing money laundering and protecting the
24	payment system from fraud and abuse, it is the sense of
25	the Congress that the several States should—

1	(1) establish uniform laws for licensing and reg-
2	ulating businesses which—
3	(A) provide check cashing, currency ex-
4	change, or money transmitting or remittance
5	services, or issue or redeem money orders, travel-
6	ers' checks, and other similar instruments; and
7	(B) are not depository institutions (as de-
8	fined in section 19(b)(1)(A) of the Federal Re-
9	serve Act); and
10	(2) provide sufficient resources to the appro-
11	priate State agency to enforce such laws and regula-
12	tions prescribed pursuant to such laws.
13	(b) Model Statute.—It is the sense of the Congress
14	that the several States should develop, through the auspices
15	of the National Conference of Commissioners on Uniform
16	State Laws, the American Law Institute, or such other
17	forum as the States may determine to be appropriate, a
18	model statute to carry out the goals described in subsection
19	(a) which would include the following:
20	(1) Licensing requirements.—A requirement
21	that any business described in subsection (a)(1) be li-
22	censed and regulated by an appropriate State agency
23	in order to engage in any such activity within the
24	State.

1	(2) Licensing standards.—A requirement
2	that—
3	(A) in order for any business described in
4	subsection (a)(1) to be licensed in the State, the
5	appropriate State agency shall review and ap-
6	prove—
7	(i) the business record and the capital
8	adequacy of the business seeking the license;
9	and
10	(ii) the competence, experience, integ-
11	rity, and financial ability of any individ-
12	ual who—
13	(I) is a director, officer, or super-
14	visory employee of such business; or
15	(II) owns or controls such busi-
16	ness; and
17	(B) any record, on the part of any business
18	seeking the license or any person referred to in
19	subparagraph (A)(ii), of—
20	(i) any criminal activity;
21	(ii) any fraud or other act of personal
22	dishonesty;
23	(iii) any act, omission, or practice
24	which constitutes a breach of a fiduciary
25	duty; or

1	(iv) any suspension or removal, by any
2	agency or department of the United States
3	or any State, from participation in the con-
4	duct of any federally or State licensed or
5	regulated business;
6	may be grounds for the denial of any such li-
7	cense by the appropriate State agency.
8	(3) Procedures to ensure compliance with
9	FEDERAL CASH TRANSACTION REPORTING REQUIRE-
10	MENTS.—A civil or criminal penalty for operating
11	any business referred to in paragraph (1) without es-
12	tablishing and complying with appropriate proce-
13	dures to ensure compliance with subchapter II of
14	chapter 53 of title 31, United States Code (relating to
15	records and reports on monetary instruments trans-
16	actions).
17	(4) Criminal penalties for operation of
18	BUSINESS WITHOUT A LICENSE.—A criminal penalty
19	for operating any business referred to in paragraph
20	(1) without a license within the State after the end
21	of an appropriate transition period beginning on the
22	date of enactment of such model statute by the State.
23	(c) Study Required.—The Secretary of the Treasury
24	shall conduct a study of—

1	(1) the progress made by the several States in de-
2	veloping and enacting a model statute which—
3	(A) meets the requirements of subsection (b);
4	and
5	(B) furthers the goals of—
6	(i) preventing money laundering by
7	businesses which are required to be licensed
8	under any such model statute; and
9	(ii) protecting the payment system, in-
10	cluding the receipt, payment, collection, and
11	clearing of checks, from fraud and abuse by
12	such businesses; and
13	(2) the adequacy of—
14	(A) the activity of the several States in en-
15	forcing the requirements of such statute; and
16	(B) the resources made available to the ap-
17	propriate State agencies for such enforcement ac-
18	tivity.
19	(d) Report Required.—Before the end of the 3-year
20	period beginning on the date of enactment of this Act and
21	by the end of each of the first two 1-year periods beginning
22	after the end of such 3-year period, the Secretary of the
23	Treasury shall submit a report to the Congress containing
24	the findings and recommendations of the Secretary in con-
25	nection with the study under subsection (c), together with

1	such recommendations for legislative and administrative
2	action as the Secretary may determine to be appropriate.
3	(e) RECOMMENDATIONS IN CASES OF INADEQUATE
4	REGULATION AND ENFORCEMENT BY STATES.—If the Sec-
5	retary of the Treasury determines that any State has been
6	unable—
7	(1) to enact a statute which meets the require-
8	ments described in subsection (b);
9	(2) to undertake adequate activity to enforce
10	such statute; or
11	(3) to make adequate resources available to the
12	appropriate State agency for such enforcement activ-
13	ity;
14	the report submitted pursuant to subsection (d) shall con-
15	tain recommendations designed to facilitate enactment and
16	enforcement of such a statute.
17	(f) Federal Funding Study.—
18	(1) Study required.—The Secretary of the
19	Treasury shall conduct a study to identify possible
20	available sources of Federal funding to cover costs to
21	the States to implement this section.
22	(2) Report.—The Secretary of the Treasury
23	shall submit a report to the Congress on the study

1	of the 18-month period beginning on the date of en-
2	actment of this Act.
3	SEC. 408. REGISTRATION OF MONEY TRANSMITTING BUSI-
4	NESSES TO PROMOTE EFFECTIVE LAW EN-
5	FORCEMENT.
6	(a) Findings and Purposes.—
7	(1) Findings.—The Congress finds the following:
8	(A) Money transmitting businesses are sub-
9	ject to the recordkeeping and reporting require-
10	ments of subchapter II of chapter 53 of title 31,
11	United States Code.
12	(B) Money transmitting businesses are
13	largely unregulated businesses and are frequently
14	used in sophisticated schemes to—
15	(i) transfer large amounts of money
16	which are the proceeds of unlawful enter-
17	prises; and
18	(ii) evade the requirements of sub-
19	chapter II of chapter 53 of title 31, United
20	States Code, the Internal Revenue Code of
21	1986, and other laws of the United States.
22	(C) Information on the identity of money
23	transmitting businesses and the names of the
24	persons who own or control, or are officers or
25	employees of, a money transmitting business

1	would have a high degree of usefulness in crimi-
2	nal, tax, or regulatory investigations and pro-
3	ceedings.
4	(2) Purpose.—It is the purpose of this section
5	to establish a registration requirement for businesses
6	engaged in providing check cashing, currency ex-
7	change, or money transmitting or remittance services,
8	or issuing or redeeming money orders, travelers'
9	checks, and other similar instruments to assist the
10	Secretary of the Treasury, the Attorney General, and
11	other supervisory and law enforcement agencies to ef-
12	fectively enforce the criminal, tax, and regulatory
13	laws and prevent such money transmitting businesses
14	from engaging in illegal activities.
15	(b) In General.—Subchapter II of chapter 53 of title
16	31, United States Code, is amended by adding at the end
17	the following new section:
18	"§ 5329. Registration of money transmitting businesses
19	"(a) Registration With Secretary of the Treas-
20	ury Required.—
21	"(1) In general.—Any person who owns or
22	controls a money transmitting business which is not
23	a depository institution (as defined in section
24	19(b)(1)(A) of the Federal Reserve Act) shall register
25	the business (whether or not the business is licensed

1	as a money transmitting business in any State) with
2	the Secretary of the Treasury before the end of the
3	180-day period beginning on the later of—
4	"(A) the date of enactment of this section;
5	or
6	"(B) the date the business is established.
7	"(2) Form and manner of registration.—
8	Subject to the requirements of subsection (b), the Sec-
9	retary of the Treasury shall prescribe, in regulations,
10	the form and manner for registering a money trans-
11	mitting business pursuant to paragraph (1).
12	"(3) Businesses remain subject to state
13	LAW.—This section shall not be construed as supersed-
14	ing any requirement of State law relating to money
15	transmitting businesses operating in such State.
16	"(4) False and incomplete information.—
17	The filing of false or materially incomplete informa-
18	tion in connection with the registration of a money
19	transmitting business shall be considered as a failure
20	to comply with the requirements of this subsection.
21	"(b) Contents of Registration.—The registration
22	of a money transmitting business under subsection (a) shall
23	include the following information:
24	"(1) The name and location of the business.

1	"(2) The name and address of each person
2	who—
3	"(A) owns or controls the business;
4	"(B) is a director or officer of the business;
5	or
6	"(C) otherwise participates in the conduct
7	of the affairs of the business.
8	"(3) The name and address of any depository in-
9	stitution at which the business maintains a trans-
10	action account (as defined in section $19(b)(1)(C)$ of
11	the Federal Reserve Act).
12	"(4) An estimate of the volume of business to be
13	reported annually.
14	"(5) Such other information as the Secretary of
15	the Treasury may require.
16	"(c) Agents of Money Transmitting Busi-
17	NESSES.—
18	"(1) Maintenance of lists of agents of
19	MONEY TRANSMITTING BUSINESSES.—Pursuant to
20	regulations which the Secretary of the Treasury shall
21	prescribe, each money transmitting business shall—
22	"(A) maintain a list containing the names
23	and addresses of all persons authorized to act as
24	an agent for such business in connection with ac-
25	tivities described in subsection $(d)(1)(A)$ and

1	such other information about such agents as the
2	Secretary may require; and
3	"(B) make the list and other information
4	available on request to any appropriate law en-
5	forcement agency.
6	"(2) Treatment of agent as money trans-
7	MITTING BUSINESS.—The Secretary of the Treasury
8	shall prescribe regulations establishing, on the basis of
9	such criteria as the Secretary determines to be appro-
10	priate, a threshold point for treating an agent of a
11	money transmitting business as a money transmit-
12	ting business for purposes of this section.
13	"(d) Definitions.—For purposes of this section—
14	"(1) Money transmitting business.—The
15	term 'money transmitting business' means any busi-
16	ness other than the United States Postal Service
17	which—
18	"(A) provides check cashing, currency ex-
19	change, or money transmitting or remittance
20	services, or issues or redeems money orders, trav-
21	elers' checks, and other similar instruments;
22	"(B) is required to file reports under section
23	5313; and

1	"(C) is not a depository institution (as de-
2	fined in section $19(b)(1)(A)$ of the Federal Re-
3	serve Act).
4	"(2) Money transmitting service.—The term
5	'money transmitting service' includes accepting cur-
6	rency or funds denominated in the currency of any
7	country and transmitting the currency or funds, or
8	the value of the currency or funds, by any means
9	through a financial agency or institution, a Federal
10	reserve bank or other facility of the Board of Gov-
11	ernors of the Federal Reserve System, or an electronic
12	funds transfer network.
13	"(e) Civil Penalty for Failure To Comply With
14	REGISTRATION REQUIREMENTS.—
15	"(1) In general.—Any person who fails to
16	comply with the money transmitting business reg-
17	istration requirements under subsection (a) or regula-
18	tions prescribed under such subsection shall be liable
19	to the United States for a civil penalty of \$5,000 for
20	each such violation.
21	"(2) Continuing violation.—Each day a vio-
22	lation described in paragraph (1) continues shall con-
23	stitute a separate violation for purposes of such para-
24	graph.

1	"(3) Assessments.—Any penalty imposed
2	under this subsection shall be assessed and collected by
3	the Secretary of the Treasury in the manner provided
4	in section 5321 and any such assessment shall be sub-
5	ject to the provisions of such section.".
6	(c) Criminal Penalty for Failure To Comply
7	With Registration Requirements.—Section 1960(b)(1)
8	of title 18, United States Code, is amended to read as fol-
9	lows:
10	"(1) the term 'illegal money transmitting busi-
11	ness' means a money transmitting business which af-
12	fects interstate or foreign commerce in any manner or
13	degree and—
14	"(A) is intentionally operated without an
15	appropriate money transmitting license in a
16	State where such operation is punishable as a
17	misdemeanor or a felony under State law; or
18	"(B) fails to comply with the money trans-
19	mitting business registration requirements under
20	section 5329 of title 31, United States Code, or
21	regulations prescribed under such section;".
22	(d) Civil Forfeiture.—Section 981(a)(1)(A) of title
23	18, United States Code, is amended by striking "or of sec-
24	tion 1956 or 1957 of this title," and inserting ", of section
25	1956 1957 or 1960 of this title "

1	(e) CLERICAL AMENDMENT.—The table of sections for
2	chapter 53 of title 31, United States Code, is amended by
3	inserting after the item relating to section 5328 the follow-
4	ing new item:
	"5329. Registration of money transmitting businesses.".
5	SEC. 409. CRIMINAL AND CIVIL PENALTY FOR STRUCTUR-
6	ING DOMESTIC AND INTERNATIONAL TRANS-
7	ACTIONS.
8	(a) Criminal Penalty.—Section 5324 of title 31,
9	United States Code, is amended by adding at the end the
10	following new subsection:
11	"(c) Criminal Penalty.—
12	"(1) In General.—Whoever violates this section
13	shall be fined in accordance with title 18, United
14	States Code, imprisoned for not more than 5 years,
15	or both.
16	"(2) Enhanced penalty for aggravated
17	CASES.—Whoever violates this section while violating
18	another law of the United States or as part of a pat-
19	tern of any illegal activity involving more than
20	\$100,000 in a 12-month period shall be fined twice
21	the amount provided in subsection (b)(3) or (c)(3) (as
22	the case may be) of section 3571 of title 18, United
23	States Code, imprisoned for not more than 10 years,
24	or both "

1	(b) Amendment Relating to Civil Penalty.—Sec-
2	tion 5321(a)(4)(A) of title 31, United States Code, is
3	amended by striking ''willfully''.
4	(c) Technical and Conforming Amendment.—Sub-
5	sections (a) and (b) of section 5322 of title 31, United States
6	Code, are amended by inserting "or 5324" after "section
7	5315'' each place such term appears.
8	SEC. 410. GAO STUDY OF CASHIERS' CHECKS.
9	(a) Study Required.—The Comptroller General of
10	the United States shall conduct a study to determine—
11	(1) the extent to which the practice of issuing of
12	cashiers' checks by financial institutions is vulnerable
13	to money laundering schemes;
14	(2) the extent to which additional recordkeeping
15	requirements should be imposed on financial institu-
16	tions which issue cashiers' checks; and
17	(3) such other factors relating to the use and reg-
18	ulation of cashiers' checks as the Comptroller General
19	determines to be appropriate.
20	(b) Report Required.—Before the end of the 180-
21	day period beginning on the date of enactment of this Act,
22	the Comptroller General shall submit a report to the Con-
23	gress containing—

1	(1) the findings and conclusions in connection
2	with the study conducted pursuant to subsection (a),
3	and
4	(2) such recommendations for legislative and ad-
5	ministrative action as the Comptroller General may
6	determine to be appropriate.
7	TITLE V—FAIR TRADE IN
8	FINANCIAL SERVICES
9	SEC. 501. SHORT TITLE.
10	This title may be cited as the "Fair Trade in Finan-
11	cial Services Act of 1994".
12	SEC. 502. EFFECTUATING THE PRINCIPLE OF NATIONAL
13	TREATMENT FOR BANKING ORGANIZATIONS.
	TREATMENT FOR BANKING ORGANIZATIONS.  The International Banking Act of 1978 (12 U.S.C.
14	
14 15	The International Banking Act of 1978 (12 U.S.C.
<ul><li>14</li><li>15</li><li>16</li></ul>	The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following
14 15 16 17	The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:
14 15 16 17 18	The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:  "SEC. 18. NATIONAL TREATMENT.
14 15 16 17 18	The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:  "SEC. 18. NATIONAL TREATMENT.  "(a) PURPOSE.—The purpose of this section is to en-
14 15 16 17 18 19 20	The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:  "SEC. 18. NATIONAL TREATMENT.  "(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to
14 15 16 17 18 19 20	The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:  "SEC. 18. NATIONAL TREATMENT.  "(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States banking organizations that operate or seek
14 15 16 17 18 19 20 21	The International Banking Act of 1978 (12 U.S.C. 3101 et seq.) is amended by adding at the end the following new section:  "SEC. 18. NATIONAL TREATMENT.  "(a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States banking organizations that operate or seek to operate in those countries.

1	to which foreign countries deny national treatment to Unit-
2	ed States banking organizations—
3	"(1) according to the most recent report under
4	section 3602 of the Omnibus Trade and Competitive-
5	ness Act of 1988 (or update thereof); or
6	"(2) based on more recent information that the
7	Secretary deems appropriate.
8	"(c) Determining Whether Denial of National
9	Treatment Has Significant Adverse Effect.—
10	"(1) In general.—The Secretary shall deter-
11	mine whether the denial of national treatment to
12	United States banking organizations by a foreign
13	country identified under subsection (b) has a signifi-
14	cant adverse effect on such organizations.
15	"(2) Factors to be considered.—In deter-
16	mining whether and to what extent a foreign country
17	denies national treatment to United States banking
18	organizations, and in determining the effect of any
19	such denial on such banking organizations, the Sec-
20	retary shall consider appropriate factors, including—
21	"(A) the size of the foreign country's mar-
22	kets for the financial services involved, and the
23	extent to which United States banking organiza-
24	tions operate or seek to operate in those markets;

1	"(B) the extent to which United States
2	banking organizations may participate in devel-
3	oping regulations, guidelines, or other policies
4	regarding new products, services, and markets in
5	the foreign country;
6	"(C) the extent to which the foreign country
7	issues written regulations, guidelines, or other
8	policies applicable to United States banking or-
9	ganizations operating or seeking to operate in
10	the foreign country that are—
11	"(i) prescribed after adequate notice
12	and opportunity for comment;
13	"(ii) readily available to the public;
14	and
15	"(iii) prescribed in accordance with
16	objective standards that effectively prevent
17	arbitrary and capricious determinations;
18	"(D) the extent to which United States
19	banking organizations may offer foreign ex-
20	change services in the foreign country; and
21	"(E) the effects of the regulatory policies of
22	the foreign country on—
23	"(i) the lending policies of the central
24	bank of that country;

1	"(ii) capital requirements applicable
2	in that country;
3	"(iii) the regulation of deposit interest
4	rates by that country;
5	"(iv) restrictions on the operation and
6	establishment of branches in that country;
7	and
8	"(v) restrictions on access to automated
9	teller machine networks in that country.
10	"(d) Publication of Determination.—
11	"(1) In general.—If the Secretary determines
12	under subsection (c) that the denial of national treat-
13	ment to United States banking organizations by a
14	foreign country has a significant adverse effect on
15	such organizations, the Secretary—
16	"(A) may, after initiating negotiations in
17	accordance with subsection (g), and after con-
18	sultation in accordance with subsection (i), pub-
19	lish that determination in the Federal Register;
20	"(B) shall, not less frequently than annu-
21	ally, in consultation with any department or
22	agency that the Secretary deems appropriate, re-
23	view each such determination to determine
24	whether it should be rescinded; and

1	"(C) shall inform State bank supervisors of
2	the publication of that determination.
3	"(2) Exception for countries that are par-
4	TIES TO CERTAIN AGREEMENTS GOVERNING FINAN-
5	CIAL SERVICES.—Paragraph (1) shall not apply to a
6	foreign country to the extent that any authority
7	under that paragraph would permit action to be
8	taken that would be inconsistent with a bilateral or
9	multilateral agreement (including any dispute resolu-
10	tion procedures contained in such agreement) that
11	governs financial services that—
12	(A) the President entered into with that
13	country; and
14	(B) the Senate and House of Representa-
15	tives approved;
16	before the date of enactment of this section.
17	"(e) Sanctions.—
18	"(1) Action by Secretary of Treasury.—
19	"(A) In General.—The Secretary may,
20	after consultation in accordance with subsection
21	(i), recommend to the appropriate Federal bank-
22	ing agency that such agency deny or suspend
23	consideration of a request for authorization filed
24	after the date of publication of a determination
25	under subsection $(d)(1)$ by a person of a foreign

1	country listed in such publication if the Sec-
2	retary determines that—
3	"(i) such action would assist the Unit-
4	ed States in negotiations to eliminate dis-
5	crimination against United States banking
6	organizations;
7	"(ii) negotiations undertaken pursuant
8	to subsection (g) are not likely to result in
9	an agreement that eliminates the denial of
10	national treatment; or
11	"(iii) the country has not adequately
12	adhered to an agreement reached as a result
13	of negotiations undertaken pursuant to sub-
14	section (g).
15	"(B) Exercise of authority.—The au-
16	thority of subparagraph (A) shall be exercised
17	according to the specific direction (if any) of the
18	President.
19	"(C) Compliance exceptions.—The ap-
20	propriate Federal banking agency shall comply
21	with the recommendation of the Secretary made
22	under subparagraph (A), unless the agency deter-
23	mines, in writing, and transmits such deter-
24	mination to the Secretary and to the Congress,
25	that such recommendation—

1	"(i) would likely result in a serious
2	impairment to the safe and sound operation
3	of the United States banking system; or
4	"(ii) would compromise the ability of a
5	Federal banking agency to resolve a failing
6	or failed financial institution because a for-
7	eign banking institution otherwise barred
8	by an action under subparagraph (A) rep-
9	resents the only bona fide reasonable offer
10	available to the Federal banking agency.
11	"(2) No affect on certain agreements.—
12	The exercise of authority under this subsection does
13	not affect any obligation of the United States to pur-
14	sue dispute resolution procedures pursuant to any
15	international agreement governing financial services,
16	approved by the House of Representatives and the
17	Senate, with respect to a dispute arising out of any
18	obligation under that agreement.
19	"(f) Exemptions From Sanctions.—
20	"(1) In general.—Subsection (e) does not
21	apply to the subsidiaries in the United States of a
22	person of a foreign country if the Secretary deter-
23	mines that the banking laws and regulations of the
24	foreign country, as actually applied, meet or exceed—

1	"(A) the standards for treatment of subsidi-
2	aries of United States banking organizations
3	contained in the Second Banking Directive, and
4	in any amendment to the Second Banking Direc-
5	tive, if the Secretary determines that such
6	amendment—
7	"(i) does not restrict any operation,
8	activity, or authority to expand any oper-
9	ation or activity, permitted under those
10	standards, of any subsidiary in the foreign
11	country of any such bank or bank holding
12	company; or
13	"(ii) is in accordance with national
14	treatment of subsidiaries of such banking
15	organizations; or
16	"(B) any set of standards that, taken as a
17	whole, is no less favorable to United States bank-
18	ing organizations than the standards referred to
19	in subparagraph (A).
20	"(2) Standards for exercise of discre-
21	TION.—In exercising any discretion under this sub-
22	section, the Secretary shall consider, with respect to
23	a bank, foreign bank, branch, agency, commercial
24	lending company, or other affiliated entity that is a

person of a foreign country and that is operating in
the United States—
"(A) the extent to which the foreign country
is progressing toward according national treat-
ment to United States banking organizations;
and
"(B) whether the foreign country permits
United States banking organizations to expand
their activities in that country, even if that
country determined that the United States did
not accord national treatment to the banking or-
ganizations of that country.
"(g) Negotiations.—
"(1) In general.—The Secretary—
"(A) shall initiate negotiations with any
foreign country with respect to which a deter-
mination made under subsection $(c)(1)$ is in
effect; and
"(B) may initiate negotiations with any
foreign country which denies national treatment
to United States banking organizations to ensure
that the foreign country accords national treat-
ment to such organizations.

1	"(2) Exceptions.—Paragraph (1) does not re-
2	quire the Secretary to initiate negotiations with a for-
3	eign country if the Secretary—
4	"(A) determines that the negotiations—
5	"(i) would be so unlikely to result in
6	progress toward according national treat-
7	ment to United States banking organiza-
8	tions as to be a waste of effort; or
9	"(ii) would impair the economic inter-
10	ests of the United States; and
11	"(B) gives written notice of that determina-
12	tion to the chairperson and the ranking minority
13	member of the Committee on Banking, Housing,
14	and Urban Affairs of the Senate and of the Com-
15	mittee on Banking, Finance and Urban Affairs
16	of the House of Representatives.
17	"(h) Report.—
18	"(1) Contents of Report.—Not later than De-
19	cember 1, 1994, and biennially thereafter, the Sec-
20	retary shall submit to the Congress a report that—
21	"(A) specifies the foreign countries identi-
22	fied under subsection (b);
23	"(B) if a determination is published under
24	subsection $(d)(1)$ with respect to the foreign
25	country, provides the reasons therefor;

1	"(C) if the Secretary has not made or has
2	rescinded such a determination with respect to
3	the foreign country, provides the reasons therefor;
4	"(D) describes the results of any negotia-
5	tions conducted under subsection $(g)(1)$ with the
6	foreign country; and
7	"(E) discusses the effectiveness of this sec-
8	tion in achieving the purpose of this section.
9	"(2) Submission of Report.—The report re-
10	quired by paragraph (1) may be submitted as part of
11	a report or update submitted under section 3602 of
12	the Omnibus Trade and Competitiveness Act of 1988.
13	"(i) Consultation in accordance
14	with this subsection means consultation with the Secretary
15	of State, the Secretary of Commerce, the United States
16	Trade Representative, and the appropriate Federal banking
17	agency.
18	"(j) Definitions.—For purposes of this section, the
19	following definitions shall apply:
20	"(1) Appropriate federal banking agen-
21	cy.—The term 'appropriate Federal banking agen-
22	cy'—
23	"(A) in the case of a noninsured State bank
24	or branch and a representative office of a foreign

1	bank, means the Board of Governors of the Fed-
2	eral Reserve System; and
3	"(B) in any other case, has the same mean-
4	ing as in section 3 of the Federal Deposit Insur-
5	ance Act.
6	"(2) Banking organization.—The term bank-
7	ing organization' means—
8	"(A) a depository institution, as defined in
9	section 3 of the Federal Deposit Insurance Act,
10	including a branch or subsidiary thereof;
11	"(B) a bank holding company, as defined in
12	section 2 of the Bank Holding Company Act of
13	1956;
14	"(C) any company required to file informa-
15	tion pursuant to section $4(f)(6)$ of the Bank
16	Holding Company Act of 1956;
17	"(D) a savings and loan holding company,
18	as defined in section 10(a)(1)(D) of the Home
19	Owners' Loan Act; and
20	"(E) any nonbank financial entity, the pri-
21	mary purpose of which is to provide credit or fi-
22	nancing, regardless of whether such entity ac-
23	cepts deposits.
24	"(3) National treatment.—A foreign country
25	accords 'national treatment' to United States banking

1	organizations if it offers them the same competitive
2	opportunities (including effective market access) as
3	are available to its domestic banking organizations in
4	like circumstances.
5	"(4) Person of a foreign country.—The
6	term 'person of a foreign country' means—
7	"(A) a person organized under the laws of
8	the foreign country;
9	"(B) a person that has its principal place
10	of business in the foreign country;
11	"(C) an individual who is—
12	"(i) a citizen of the foreign country, or
13	"(ii) domiciled in the foreign country;
14	and
15	"(D) a person that is directly or indirectly
16	controlled by a person or persons described in
17	subparagraph (A) or (B), or by an individual or
18	individuals described in subparagraph (C).
19	"(5) Request for authorization.—The term
20	'request for authorization'—
21	"(A) means an application, registration,
22	notice, or other request to commence a financial
23	service or establish a financial services office that
24	is required under title LXII of the Revised Stat-
25	utes, the International Banking Act of 1978, the

1	Federal Reserve Act, the Home Owners' Loan
2	Act, or the Bank Holding Company Act of 1956;
3	and
4	"(B) does not include any such request by
5	a company described in section 2(h)(2) of the
6	Bank Holding Company Act of 1956.
7	"(6) Second banking directive.—The term
8	'Second Banking Directive' means the Second Council
9	Directive of December 15, 1989, on the Coordination
10	of Laws, Regulations, and Administrative Provisions
11	Relating to the Taking Up and Pursuit of the Busi-
12	ness of Credit Institutions and Amending Directive
13	77/780/EEC (89/646/EEC).
14	"(7) Secretary.—The term 'Secretary' means
15	the Secretary of the Treasury.".
16	SEC. 503. EFFECTUATING THE PRINCIPLE OF NATIONAL
17	TREATMENT FOR SECURITIES ORGANIZA-
18	TIONS.
19	(a) Purpose.—The purpose of this section is to en-
20	courage foreign countries to accord national treatment to
21	United States securities organizations that operate or seek
22	to operate in those countries.
23	(b) Identifying Countries That Deny National
24	Treatment to United States Securities Organiza-
25	TIONS.—The Secretary shall identify whether and to what

1	extent foreign countries deny national treatment to United
2	States securities organizations—
3	(1) according to the most recent report under sec-
4	tion 3602 of the Omnibus Trade and Competitiveness
5	Act of 1988 (or update thereof); or
6	(2) based upon more recent information that the
7	Secretary deems appropriate.
8	(c) Determining Whether Denial of National
9	Treatment Has Significant Adverse Effect.—The
10	Secretary shall determine whether the denial of national
11	treatment to United States securities organizations by a
12	foreign country identified under subsection (b) has a sig-
13	nificant adverse effect on such organizations.
14	(d) Publication of Determination.—
15	(1) In general.—If the Secretary determines
16	under subsection (c) that the denial of national treat-
17	ment to United States securities organizations by a
18	foreign country has a significant adverse effect on
19	such organizations, the Secretary—
20	(A) may, after initiating negotiations in
21	accordance with subsection (f), and after con-
22	sultation in accordance with subsection (h), pub-
23	lish that determination in the Federal Register;
24	and

1	(B) shall, not less frequently than annually,
2	in consultation with any department or agency
3	that the Secretary deems appropriate, review
4	each such determination to determine whether it
5	should be rescinded.
6	(2) Exception for countries that are par-
7	TIES TO CERTAIN AGREEMENTS GOVERNING FINAN-
8	CIAL SERVICES.—Paragraph (1) shall not apply to a
9	foreign country to the extent that any authority
10	under that paragraph would permit action to be
11	taken that would be inconsistent with a bilateral or
12	multilateral agreement (including any dispute resolu-
13	tion procedures contained in such agreement) that
14	governs financial services that—
15	(A) the President entered into with that country;
16	and
17	(B) the Senate and House of Representatives ap-
18	proved;
19	before the date of enactment of this section.
20	(e) Sanctions.—
21	(1) Action by Secretary of Treasury.—
22	(A) In general.—The Secretary may, after
23	consultation in accordance with subsection (h),
24	recommend to the Commission that the Commis-
25	sion deny or suspend consideration of a request

1	for authorization filed after the date of publica-
2	tion of a determination under subsection $(d)(1)$
3	by a person of a foreign country listed in such
4	publication if the Secretary determines that—
5	(i) such action would assist the United
6	States in negotiations to eliminate dis-
7	crimination against United States securi-
8	ties organizations;
9	(ii) negotiations undertaken pursuant
10	to subsection (f) are not likely to result in
11	an agreement that eliminates the denial of
12	national treatment; or
13	(iii) the country has not adequately
14	adhered to an agreement reached as a result
15	of negotiations undertaken pursuant to sub-
16	section (f).
17	(B) Exercise of authority.—The au-
18	thority of subparagraph (A) shall be exercised
19	according to the specific direction (if any) of the
20	President.
21	(C) COMMISSION ACTION.—The Commission
22	shall deny or suspend consideration of a request
23	for authorization in accordance with the rec-
24	ommendation of the Secretary made under sub-
25	paragraph (A), unless such recommendation

1	would likely result in a serious adverse impact
2	on—
3	(i) the maintenance of fair and orderly
4	securities markets; or
5	(ii) the protection of investors.
6	(D) Authority upon denial of author-
7	IZATION.—
8	(i) In General.—In connection with
9	the denial of a request for authorization
10	under subparagraph (A), the Commission
11	may order—
12	(I) disposition of any controlling
13	interest referred to in subsection
14	(i)(9)(B)(i);
15	(II) closure of any office referred
16	to in subsection (i)(9)(B)(ii); or
17	(III) termination of any advisory
18	relationship referred to in subpara-
19	graphs (C) and (D) of subsection
20	(i) (9).
21	(ii) Penalty for noncompliance.—
22	The Commission may revoke the underlying
23	registration under Federal securities laws of
24	any person who fails to comply with an
25	order issued under clause (i).

1	(2) Notice required to file requests for
2	AUTHORIZATION.—
3	(A) In GENERAL.—If a determination is
4	published under subsection (d)(1) with respect to
5	a foreign country, no person of that foreign
6	country may file a request for authorization un-
7	less such person files notice of such request si-
8	multaneously with the Commission and the Sec-
9	retary, not less than 90 days in advance of the
10	action that is the subject of the request, in such
11	form and containing such information as the
12	Commission may prescribe by rule.
13	(B) Notifying secretary.—The Commis-
14	sion shall promptly notify the Secretary of any
15	notice received under subparagraph (A).
16	(C) Extending 90-day period.—The Com-
17	mission may, by order, extend for an additional
18	180 days the period during which the Commis-
19	sion may consider a notice received under sub-
20	paragraph (A).
21	(3) Standards for exercise of discre-
22	TION.—In exercising any discretion under this sub-
23	section, the Secretary shall consider, with respect to
24	a securities organization that is controlled, directly or
25	indirectly, by a person of a foreign country—

1	(A) the extent to which the foreign country
2	is progressing toward according national treat-
3	ment to United States securities organizations,
4	and
5	(B) whether the foreign country permits
6	United States securities organizations to expand
7	their activities in that country, even if that
8	country determined that the United States did
9	not accord national treatment to securities orga-
10	nizations of that country.
11	(f) Negotiations.—
12	(1) In General.—The Secretary—
13	(A) shall initiate negotiations with any for-
14	eign country with respect to which a determina-
15	tion under subsection $(c)(1)$ is in effect; and
16	(B) may initiate negotiations with any for-
17	eign country which denies national treatment to
18	United States securities organizations to ensure
19	that the foreign country accords national treat-
20	ment to such organizations.
21	(2) Exceptions.—Paragraph (1) does not re-
22	quire the Secretary to initiate negotiations with a for-
23	eign country if the Secretary—
24	(A) determines that the negotiations—

1	(i) would be so unlikely to result in
2	progress toward according national treat-
3	ment to United States securities organiza-
4	tions as to be a waste of effort; or
5	(ii) would impair the economic inter-
6	ests of the United States; and
7	(B) gives written notice of that determina-
8	tion to the chairperson and the ranking minority
9	member of the Committee on Banking, Housing,
10	and Urban Affairs of the Senate and of the Com-
11	mittee of Energy and Commerce of the House of
12	Representatives.
13	(g) Report.—
14	(1) Contents of Report.—Not later than De-
15	cember 1, 1994, and biennially thereafter, the Sec-
16	retary shall submit to the Congress a report that—
17	(A) specifies the foreign countries identified
18	under subsection (b);
19	(B) if a determination is published under
20	subsection $(d)(1)$ with respect to the foreign
21	country, provides the reasons therefor;
22	(C) if the Secretary has not made, or has
23	rescinded, a determination under subsection
24	(d)(1) with respect to the foreign country, pro-
25	vides the reasons therefor;

1	(D) describes the results of any negotiations
2	conducted under subsection (f)(1) with the for-
3	eign country; and
4	(E) discusses the effectiveness of this section
5	in achieving the purpose of this section.
6	(2) Submission of Report.—The report re-
7	quired by paragraph (1) may be submitted as part of
8	a report or update submitted under section 3602 of
9	the Omnibus Trade and Competitiveness Act of 1988.
10	(h) Consultation.—Consultation in accordance with
11	this subsection means consultation with the Secretary of
12	State, the Secretary of Commerce, the United States Trade
13	Representative, and the Commission.
14	(i) Definitions.—For purposes of this section, the fol-
15	lowing definitions shall apply:
16	(1) Broker.—The term "broker" has the same
17	meaning as in section 3(a)(4) of the Securities Ex-
18	change Act of 1934.
19	(2) Commission.—The term "Commission"
20	means the Securities and Exchange Commission.
21	(3) Control.—The terms "directly or indirectly
22	controlled by" and "controlled, directly or indirectly"
23	shall have the meanings given to such terms in rules
24	or regulations issued by the Secretary of the Treasury.

1	not later than 6 months after the date of enactment
2	of this Act, after consultation with the Commission.
3	(4) Dealer.—The term "dealer" has the same
4	meaning as in section $3(a)(5)$ of the Securities Ex-
5	change Act of 1934.
6	(5) Investment adviser.—The term "invest-
7	ment adviser'' has the same meaning as in section
8	202(a)(11) of the Investment Advisers Act of 1940.
9	(6) Investment company.—The term "invest-
10	ment company" has the same meaning as in section
11	3 of the Investment Company Act of 1940.
12	(7) National treatment.—A foreign country
13	accords "national treatment" to United States securi-
14	ties organizations if it offers them the same competi-
15	tive opportunities (including effective market access)
16	as are available to its domestic securities organiza-
17	tions in like circumstances.
18	(8) Person of a foreign country.—The term
19	"person of a foreign country" means—
20	(A) a person organized under the laws of
21	the foreign country;
22	(B) a person that has its principal place of
23	business in the foreign country;
24	(C) an individual who is—
25	(i) a citizen of the foreign country: or

1	(ii) domiciled in the foreign country;
2	(D) a person that is directly or indirectly
3	controlled by one or more persons described in
4	subparagraph (A), (B), or (C); and
5	(E) an investment company, an investment
6	adviser of which is a person described in any of
7	subparagraphs (A) through (D).
8	(9) Request for authorization.—The term
9	"request for authorization" means—
10	(A) an application to register under section
11	15(b), 15B, or 15C of the Securities Exchange
12	Act of 1934, or section 203(c) of the Investment
13	Advisers Act of 1940, including an application
14	to succeed to the business of a registered entity;
15	(B) an amendment to a registration state-
16	ment referred to in subparagraph (A) that re-
17	flects—
18	(i) the acquisition of control of the reg-
19	istered entity; or
20	(ii) the addition of a United States of-
21	fice by the registered entity;
22	(C) a registration statement filed by an in-
23	vestment company under section 8(b) of the In-
24	vestment Company Act of 1940, if a person of a

1	foreign country will serve as an investment ad-
2	viser to the investment company; and
3	(D) an amendment to an investment com-
4	pany registration statement filed under section
5	8(b) of the Investment Company Act of 1940 that
6	reflects the retention of a person of a foreign
7	country as an investment adviser.
8	(10) Secretary.—The term "Secretary" means
9	the Secretary of the Treasury.
10	(11) Securities organization.—The term "se-
11	curities organization'' means a broker, a dealer, an
12	investment company, or an investment adviser.
13	SEC. 504. EFFECTUATING THE PRINCIPLE OF NATIONAL
	SEC. 504. EFFECTUATING THE PRINCIPLE OF NATIONAL TREATMENT FOR INSURERS AND REINSUR-
14	
14 15	TREATMENT FOR INSURERS AND REINSUR-
14 15 16	TREATMENT FOR INSURERS AND REINSUR- ERS.
14 15 16 17	TREATMENT FOR INSURERS AND REINSURERS.  (a) Purpose.—The purpose of this section is to en-
14 15 16 17 18	TREATMENT FOR INSURERS AND REINSURERS.  (a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to
14 15 16 17 18	TREATMENT FOR INSURERS AND REINSURERS.  (a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek
14 15 16 17 18 19 20	TREATMENT FOR INSURERS AND REINSURERS.  (a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.
14 15 16 17 18 19 20 21	TREATMENT FOR INSURERS AND REINSURERS.  (a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.  (b) IDENTIFYING COUNTRIES THAT DENY NATIONAL
14 15 16 17 18 19 20 21 22	TREATMENT FOR INSURERS AND REINSURERS.  (a) PURPOSE.—The purpose of this section is to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.  (b) IDENTIFYING COUNTRIES THAT DENY NATIONAL TREATMENT TO UNITED STATES INSURERS OR REINSURE

1	(1) according to the most recent report under sec-
2	tion 3602 of the Omnibus Trade and Competitiveness
3	Act of 1988 (or update thereof); or
4	(2) based on more recent information that the
5	President deems appropriate.
6	(c) Determining Whether Denial of National
7	Treatment Has Significant Adverse Effect.—
8	(1) In General.—The President shall determine
9	whether the denial of national treatment to United
10	States insurers or reinsurers by a foreign country
11	identified under subsection (b) has a significant ad-
12	verse effect on such organizations.
13	(2) Factors To Be Considered.—In deter-
14	mining whether and to what extent a foreign country
15	denies national treatment to United States insurers
16	or reinsurers, and in determining the effect of any
17	such denial on such insurers or reinsurers, the Presi-
18	dent shall consider appropriate factors, including—
19	(A) the size of the foreign country's markets
20	for the financial services involved, and the extent
21	to which United States insurers or reinsurers op-
22	erate or seek to operate in those markets;
23	(B) the extent to which United States insur-
24	ers or reinsurers may participate in developing
25	regulations, guidelines, or other policies regard-

1	ing new products, services, and markets in the
2	foreign country;
3	(C) the extent to which the foreign country
4	issues written regulations, guidelines, or other
5	policies applicable to United States insurers or
6	reinsurers operating or seeking to operate in the
7	foreign country that are—
8	(i) prescribed after adequate notice and
9	opportunity for comment;
10	(ii) readily available to the public; and
11	(iii) prescribed in accordance with ob-
12	jective standards that effectively prevent ar-
13	bitrary and capricious determinations;
14	(D) the effects of the regulatory policies of
15	the foreign country on—
16	(i) the licensing policies of the insur-
17	ance regulator of that country;
18	(ii) capital requirements applicable in
19	that country;
20	(iii) restrictions on acquisitions or
21	joint ventures and operations thereof by in-
22	surers or reinsurers in that country; and
23	(iv) restrictions on the operation and
24	establishment of branches in that country.
25	(d) Publication of Determination.—

1	(1) In General.—If the President determines
2	under subsection (c) that the denial of national treat-
3	ment to United States insurers or reinsurers by a for-
4	eign country has a significant adverse effect on such
5	organizations, the President—
6	(A) may, after initiating negotiations in
7	accordance with subsection (f) publish that deter-
8	mination in the Federal Register;
9	(B) shall, not less frequently than annually,
10	in consultation with any department or agency
11	that the President deems appropriate, review
12	each such determination to determine whether it
13	should be rescinded; and
14	(C) shall inform State insurance commis-
15	sioners of the publication of that determination.
16	(2) Exception for Countries That Are Par-
17	ties To Certain Agreements Governing Finan-
18	CIAL SERVICES.—Paragraph (1) shall not apply to a
19	foreign country to the extent that any authority
20	under that paragraph would permit action to be
21	taken that would be inconsistent with a bilateral or
22	multilateral agreement including any dispute resolu-
23	tion procedures contained in such agreement that gov-
24	erns financial services, including insurance, that—

1	(A) the President entered into with that
2	country; and
3	(B) the Senate and the House of Represent-
4	atives approved;
5	before the date of enactment of this section.
6	(e) Sanctions.—
7	(1) Actions by the President.—
8	(A) In General.—The President may rec-
9	ommend to the State insurance commissioners
10	that they deny a foreign insurer's or reinsurer's
11	request for authorization which is filed after the
12	date of publication of a determination under
13	subsection $(d)(1)$ by a person of a foreign coun-
14	try listed in such publication if the President de-
15	termines that—
16	(i) such action would assist the United
17	States in negotiations to eliminate dis-
18	crimination against United States insurers
19	or reinsurers;
20	(ii) negotiations undertaken pursuant
21	to subsection (f) are not likely to result in
22	an agreement that eliminates the denial of
23	national treatment; or
24	(iii) the country has not adequately
25	adhered to an agreement reached as a result

1	of negotiations undertaken pursuant to sub-
2	section (f).
3	(B) Exercise of Authority.—If the

- (B) Exercise of Authority.—If the President delegates his authority under section 504(b), the designee's authority under subparagraph (A) shall be exercised according to the specific direction (if any) of the President.
- (C) Compliance Exceptions.—If the State insurance commissioners do not act within 90 days on the President's recommendations in subsection (A), or if the President determines that the procedure outlined in subsection (A) is either inappropriate or impractical to achieve the purpose of this section, the President may take such action as he or she considers necessary and appropriate to encourage foreign countries to accord national treatment to United States insurers and reinsurers that operate or seek to operate in those countries.
- (2) Standards for Exercise of Discretion.—In exercising any discretion under subsection (e), the President shall consider, with respect to an insurer or reinsurer, branch, or other affiliated entity that is a person of a foreign country and is operating in the United States—

1	(A) the extent to which the foreign country
2	is progressing toward according national treat-
3	ment to United States insurers or reinsurers;
4	and
5	(B) whether the foreign country permits
6	United States insurers or reinsurers to expand
7	their activities in that country, even if that
8	country determined that the United States did
9	not accord national treatment to the insurers or
10	reinsurers of that country.
11	(f) Negotiations.—
12	(1) In General.—The President—
13	(A) shall initiate negotiations with any for-
14	eign country with respect to which a determina-
15	tion made under subsection $(c)(1)$ is in effect;
16	and
17	(B) may initiate negotiations with any for-
18	eign country which denies national treatment to
19	United States insurers or reinsurers to ensure
20	that the foreign country accords national treat-
21	ment to such insurers or reinsurers.
22	(2) Exceptions.—Paragraph (1) does not re-
23	quire the President to initiate negotiations with a for-
24	eign country if the President—
25	(A) determines that the negotiations—

1	(i) would be so unlikely to result in
2	progress toward according national treat-
3	ment to United States insurers or reinsurers
4	as to be a waste of effort; or
5	(ii) would impair the economic inter-
6	ests of the United States; and
7	(B) gives written notice of that determina-
8	tion to the chairperson and the ranking minority
9	member of the appropriate Senate and House
10	committees.
11	(g) Report.—
12	(1) Contents of Report.—Not later than De-
13	cember 1, 1994, and biennially thereafter, the Presi-
14	dent shall submit to the Congress a report that—
15	(A) specifies the foreign countries identified
16	under subsection (b);
17	(B) if a determination is published under
18	subsection $(d)(1)$ with respect to the foreign
19	country, provides the reasons therefor;
20	(C) if the President has not made or has re-
21	scinded such a determination with respect to the
22	foreign country, provides the reasons therefor;
23	(D) describes the results of any negotiations
24	conducted under subsection $(g)(1)$ with the for-
25	eign country; and

1	(E) discusses the effectiveness of this section
2	in achieving the purpose of this section.
3	(2) Submission of Report.—The report re-
4	quired by paragraph (1) may be submitted as part of
5	a report or update submitted under section 3602 of
6	the Omnibus Trade and Competitiveness Act of 1988.
7	(h) Definitions.—For purposes of this section, the
8	following definitions shall apply:
9	(1) Insurer.—The term "insurer" means a
10	party to a contract of insurance who assumes the risk
11	and undertakes to indemnify the insured, or pay a
12	certain sum on the happening of a specified contin-
13	gency.
14	(2) National treatment.—A foreign country
15	accords "national treatment" to United States insur-
16	ers and reinsurers if it offers them the same competi-
17	tive opportunities (including effective market access)
18	as are available to its domestic insurers or reinsurers.
19	(3) Person of a foreign country.—The term
20	"person of a foreign country" means—
21	(A) a person organized under the laws of
22	the foreign country;
23	(B) a person that has its principal place of
24	business in the foreign country;
25	(C) an individual who is—

1	(i) a citizen of the foreign country, or
2	(ii) domiciled in the foreign country;
3	and
4	(D) a person that is directly or indirectly
5	controlled by a person or persons described in
6	subparagraph (A) or (B), or by an individual or
7	individuals described in subparagraph (C).
8	(4) President.—The term "President" means
9	the President of the United States or the President's
10	designee.
11	(5) Reinsurer.—The term ''reinsurer'' means
12	an insurer which contracts to indemnify a ceding in-
13	surer for all or part of a risk originally undertaken
14	by the ceding insurer.
15	(6) Request for authorization.—The term
16	"request for authorization" means—
17	(A) an application, registration, notice, or
18	other request to commence engaging in the busi-
19	ness of insurance in a State; or
20	(B) an application, registration, notice, or
21	other request for renewal of authorization to en-
22	gage in the business of insurance in a State.

1	SEC. 505. FINANCIAL INTERDEPENDENCE STUDY.
2	Subtitle G of title III of the Omnibus Trade and Com-
3	petitiveness Act of 1988 (22 U.S.C. 5351 et seq.) is amended
4	by adding at the end the following new section:
5	"SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.
6	"(a) Investigation Required.—The Secretary, in
7	consultation and coordination with the Securities and Ex-
8	change Commission, the Federal banking agencies, and any
9	other appropriate Federal department or agency designated
10	by the Secretary, shall conduct an investigation to deter-
11	mine—
12	"(1) the extent of the interdependence of the fi-
13	nancial services sectors of the United States and for-
14	eign countries—
15	"(A) whose financial services institutions
16	provide financial services in the United States,
17	OF
18	"(B) whose persons have substantial owner-
19	ship interests in United States financial services
20	institutions; and
21	"(2) the economic, strategic, and other con-
22	sequences of that interdependence for the United
23	States.
24	"(b) Report.—
25	"(1) Report required.—Not later than 3
26	years after the date of enactment of this section, the

1	Secretary shall submit a report on the results of the
2	investigation under subsection (a) to the President,
3	the Congress, the Securities and Exchange Commis-
4	sion, the Federal banking agencies, and any other ap-
5	propriate Federal agency or department, as des-
6	ignated by the Secretary.
7	"(2) Contents of Report.—The report re-
8	quired under paragraph (1) shall—
9	"(A) describe the activities and estimate the
10	scope of financial services activities conducted by
11	United States financial services institutions in
12	foreign markets (differentiated according to
13	major foreign markets);
14	"(B) describe the activities and estimate the
15	scope of financial services activities conducted by
16	foreign financial services institutions in the
17	United States (differentiated according to the
18	most significant home countries or groups of
19	home countries);
20	"(C) estimate the number of jobs created in
21	the United States by financial services activities
22	conducted by foreign financial services institu-
23	tions and the number of jobs created in foreign
24	countries by financial service activities con-

1	ducted by United States financial services insti-
2	tutions;
3	"(D) estimate the additional jobs and reve-
4	nues (both foreign and domestic) that would be
5	created by the activities of United States finan-
6	cial services institutions in foreign countries if
7	those countries offered such institutions the same
8	competitive opportunities (including effective
9	market access) as are available to the domestic
10	financial services institutions of those countries;
11	"(E) describe the extent to which foreign fi-
12	nancial services institutions discriminate
13	against United States persons in procurement,
14	employment, the provision of credit or other fi-
15	nancial services, or otherwise;
16	"(F) describe the extent to which foreign fi-
17	nancial services institutions and other persons
18	from foreign countries purchase or otherwise fa-
19	cilitate the marketing from the United States of
20	government and private debt instruments and
21	private equity instruments;
22	"(G) describe how the interdependence of the
23	financial services sectors of the United States
24	and foreign countries affects the autonomy and
25	effectiveness of United States monetary policy;

1	"(H) describe the extent to which United
2	States companies rely on financing by or
3	through foreign financial services institutions
4	and the consequences of such reliance (including
5	disclosure of proprietary information) for the in-
6	dustrial competitiveness and national security of
7	the United States;
8	"(I) describe the extent to which foreign fi-
9	nancial services institutions, in purchasing high
10	technology products such as computers and tele-
11	communications equipment, favor manufacturers
12	from their home countries over United States
13	manufacturers; and
14	"(J) contain other appropriate information
15	relating to the results of the investigation re-
16	quired by subsection (a).
17	"(c) Definitions.—For purposes of this section the
18	following definitions shall apply:
19	"(1) Depository institution and depository
20	INSTITUTION HOLDING COMPANY.—The terms 'deposi-
21	tory institution' and 'depository institution holding
22	company' have the same meanings as in section 3 of
23	the Federal Deposit Insurance Act.

1	"(2) Federal banking agencies.—The term
2	'Federal banking agencies' has the same meaning as
3	in section 3 of the Federal Deposit Insurance Act.
4	"(3) Financial services institution.—The
5	term 'financial services institution' means—
6	"(A) a broker, dealer, underwriter, clearing
7	agency, transfer agent, or information processor
8	with respect to securities, including government
9	and municipal securities;
10	"(B) an investment company, investment
11	manager, investment adviser, indenture trustee,
12	or any depository institution, insurance com-
13	pany, or other organization operating as a fidu-
14	ciary, trustee, underwriter, or other financial
15	services provider;
16	"(C) any depository institution or deposi-
17	tory institution holding company; and
18	"(D) any other entity providing financial
19	services.
20	"(4) Secretary.—The term 'Secretary' means
21	the Secretary of the Treasury.".

1	SEC. 506. FEDERAL RESERVE REPORT ON THE FOREIGN
2	BANK SUPERVISION ENHANCEMENT ACT OF
3	1991.
4	The Federal Reserve shall submit to the House and
5	Senate Banking Committees within 60 days of enactment
6	of this legislation a report on the Foreign Bank Supervision
7	Enhancement Act of 1991 including:
8	(a) the number of applicants received and from
9	what countries;
10	(b) the number of applications approved and
11	from what countries;
12	(c) the amount of time taken on each application
13	between receipt and approval or rejection of the ap-
14	plication;
15	(d) other agencies involved in the approval proc-
16	ess, how much time is taken by those agencies, and
17	any problems encountered with these agencies;
18	(e) coordination of processing applications and
19	length of time for processing between the regional
20	bank's and the Federal Reserve Board's staffs;
21	(f) efforts to define consolidated home country su-
22	pervision on an international basis, and
23	(g) suggestions for streamlining the process.
24	SEC. 507. CONFORMING AMENDMENTS.
25	(a) Reports on Foreign Treatment of United
26	States Financial Institutions.—Section 3602 of the

Omnibus Trade and Competitiveness Act of 1988 (22) *U.S.C.* 5352) is amended— 3 (1) in the first sentence, by inserting "with updates on significant developments every 2 years fol-4 lowing submission of the 1994 report," before "the 5 Secretary of the Treasury"; and 6 7 (2) by adding at the end the following: "For purposes of this section, a foreign country denies national 8 treatment to United States entities unless the foreign 9 country offers such entities the same competitive op-10 portunities (including effective market access) as are 11 available to the domestic entities of the foreign coun-12 13 try.". 14 (b) Negotiations To Promote Fair Trade in Fi-NANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (22 U.S.C. 16 5353(a)(1)) is amended by inserting "effective" before "ac-18 cess". 19 (c) Primary Dealers in Government Debt In-STRUMENTS.—Section 3502(b)(1) of the Omnibus Trade 21 and Competitiveness Act of 1988 (22 U.S.C. 5342(b)(1)) is 22 amended— (1) by striking "does not accord to" and insert-23

24

ing "does not offer"; and

1	(2) by striking "as such country accords to" and
2	inserting "(including effective market access) as are
3	available to''.
4	(d) Conforming Amendments to the Securities
5	Exchange Act of 1934.—
6	(1) Section 15.—Section 15(b)(1) of the Securi-
7	ties Exchange Act of 1934 (15 U.S.C. 780(b)(1)) is
8	amended by adding at the end the following: "The
9	Commission may suspend consideration, deny reg-
10	istration, issue an order, or revoke registration, as
11	provided in section 403(e)(1) of the Fair Trade in Fi-
12	nancial Services Act of 1994.".
13	(2) Section 15B.—Section 15B(a)(2) of the Se-
14	curities Exchange Act of 1934 (15 U.S.C. 780-
15	4(a)(2)) is amended by adding at the end the follow-
16	ing: "The Commission may suspend consideration,
17	deny registration, issue an order, or revoke registra-
18	tion, as provided in section 403(e)(1) of the Fair
19	Trade in Financial Services Act of 1994.".
20	(3) Section 15C.—Section 15C(a)(2) of the Se-
21	curities Exchange Act of 1934 (15 U.S.C. 780-
22	5(a)(2)) is amended by adding at the end the follow-
23	ing: "The Commission may suspend consideration,
24	deny registration, issue an order, or revoke registra-

- 1 tion, as provided in section 403(e)(1) of the Fair
- 2 Trade in Financial Services Act of 1994.".
- 3 (e) Conforming Amendment to the Investment
- 4 Company Act of 1940.—Section 8 of the Investment Com-
- 5 pany Act of 1940 (15 U.S.C. 80a-8) is amended by adding
- 6 at the end the following new subsection:
- 7 "(g) The Commission may suspend consideration,
- 8 deny registration, issue an order, or revoke registration, as
- 9 provided in section 403(e)(1) of the Fair Trade in Finan-
- 10 cial Services Act of 1994.".
- 11 (f) Conforming Amendment to the Investment
- 12 Advisers Act of 1940.—Section 203(c)(2) of the Invest-
- 13 ment Advisers Act of 1940 (15 U.S.C. (c)(2)) is amended
- 14 by adding at the end the following: "The Commission may
- 15 suspend consideration, deny registration, issue an order, or
- 16 revoke registration, as provided in section 403(e)(1) of the
- 17 Fair Trade in Financial Services Act of 1994.".

## 18 TITLE VI—NATIONAL FLOOD

## 19 **INSURANCE REFORM**

- 20 SEC. 601. SHORT TITLE.
- 21 This title may be cited as the "National Flood Insur-
- 22 ance Reform Act of 1994".
- 23 SEC. 602. CONGRESSIONAL FINDINGS.
- 24 The Congress finds that—

- 1 (1) the 4 principal objectives of the National
  2 Flood Insurance Program are to limit increasing
  3 flood control and disaster relief expenditures, to pro4 vide a prefunded mechanism to more fully indemnify
  5 victims of flood-related disasters, to limit unwise de6 velopment in floodplains, and to provide affordable
  7 Federal flood insurance for structures located in areas
  8 of special flood hazards;
  - (2) since 1968, the National Flood Insurance Program has reduced the need for taxpayer funded disaster assistance and has been a factor in motivating local government mitigation efforts.
  - (3) repetitively damaged properties represent a substantial problem for the National Flood Insurance Program, with over 40 percent of all flood insurance claims made on properties that have been damaged more than once:
  - (4) the problem of erosion warrants greater analysis;
  - (5) reforms in the National Flood Insurance Program are essential to increase participation in the Program, make the Program more actuarially sound, decrease the risk of losses to the United States Treasury, and address the problem of properties repetitively damaged by floods;

- 1 (6) a Federal flood insurance program that com-2 bines predisaster mitigation efforts together with an 3 insurance and compliance program will reduce the 4 physical and economic effects of flood-related damage 5 on the Federal Government, State and local govern-6 ments, and individuals;
  - (7) requiring regulated lending institutions, government agencies, and government-sponsored enterprises to make sure that flood insurance coverage is purchased on all properties in areas of special flood hazards in participating communities will increase compliance with the program, and increase the pool of funds, thereby decreasing the impact on the National Flood Insurance Fund of individual flood events;
    - (8) incentives in the form of reduced premium rates for flood insurance under the National Flood Insurance Program should be provided in communities that have adopted and enforced exemplary or particularly effective measures for comprehensive floodplain management; and
    - (9) these community-based, individual mitigation, and loss prevention methods and incentives should be incorporated into the National Flood Insurance Program.

1	SEC. 603. DEFINITION.
2	As used in this title, the term "Director" means the
3	Director of the Federal Emergency Management Agency.
4	Subtitle A—Definitions
5	SEC. 611. FLOOD DISASTER PROTECTION ACT OF 1973.
6	(a) In General.—Section 3(a) of the Flood Disaster
7	Protection Act of 1973 (42 U.S.C. 4003(a)) is amended—
8	(1) by striking paragraph (5) and inserting the
9	following new paragraph:
10	"(5) 'Federal entity for lending regulation
11	means the Board of Governors of the Federal Reserve
12	System, the Federal Deposit Insurance Corporation
13	the Comptroller of the Currency, the Office of Thrif
14	Supervision, the National Credit Union Administra-
15	tion Board, and the Farm Credit Administration
16	and with respect to a particular regulated lending in
17	stitution means the entity primarily responsible for
18	the supervision of the institution;";
19	(2) in paragraph (6), by striking the period a
20	the end and inserting a semicolon; and
21	(3) by inserting after paragraph (6) the follow-
22	ing new paragraphs:
23	''(7) 'regulated lending institution' means a
24	bank, savings association, credit union, farm credi

bank, Federal land bank association, production cred-

it association, or similar institution subject to the su pervision of a Federal entity for lending regulation;

"(8) 'Federal agency lender' means the Federal Housing Administration, the Farmers Home Administration, the Small Business Administration, and the Veterans' Administration, when such agency makes loans secured by improved real estate or a manufactured home; and

"(9) 'servicer' means a person who receives any scheduled periodic payments from a borrower pursuant to the terms of any loan secured by a lien on real property, and who makes the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required."

## (b) Conforming Amendments.—

(1) Requirements to purchase flood insur-ANCE.—Section 102(b) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a(b)) is amended by striking "(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions" and inserting the following:

1	"(b) Flood Insurance Purchase Require-
2	MENTS.—Each Federal entity for lending regulation shall
3	by regulation direct regulated lending institutions".
4	(2) Effect of nonparticipation in flood in-
5	SURANCE PROGRAM.—Section 202(b) of the Flood
6	Disaster Protection Act of 1973 (42 U.S.C. 4106(b))
7	is amended by striking "Federal instrumentality de-
8	scribed in such section shall by regulation require the
9	institutions" and inserting "Federal entity for lend-
10	ing regulation (with respect to regulated lending in-
11	stitutions)''.
12	SEC. 612. NATIONAL FLOOD INSURANCE ACT OF 1968.
13	(a) In General.—Section 1370(a) of the National
14	Flood Insurance Act of 1968 (42 U.S.C. 4121(a)) is amend-
15	ed—
16	(1) in paragraph (5), by striking "and" at the
17	end;
18	(2) in paragraph (6), by striking the period at
19	the end and inserting a semicolon; and
20	(3) by adding at the end the following new para-
21	graphs:
22	"(7) the term 'Federal entity for lending regula-
23	tion' means the Board of Governors of the Federal Re-
24	serve System, the Federal Deposit Insurance Corpora-
25	tion, the Comptroller of the Currency, the Office of

1	Thrift Supervision, and the National Credit Union
2	Administration Board, and with respect to a particu-
3	lar regulated lending institution, means the entity
4	primarily responsible for the supervision of the insti-
5	tution;
6	"(8) the term 'regulated lending institution'
7	means a bank, savings association, credit union, farm
8	credit bank, Federal land bank association, produc-
9	tion credit association, or similar institution subject
10	to the supervision of a Federal entity for lending reg-
11	ulation;
12	"(9) the term 'Federal agency lender' means the
13	Federal Housing Administration, the Farmers Home
14	Administration, the Small Business Administration,
15	and the Veterans' Administration, when such agency
16	makes loans secured by improved real estate or a
17	manufactured home;
18	"(10) the term 'natural and beneficial floodplain
19	functions' means—
20	"(A) the functions associated with the natu-
21	ral or relatively undisturbed floodplain that
22	moderate flooding, retain flood waters, reduce
23	erosion and sedimentation, mitigate the effects of
24	waves and storm surge from storms; and

1	"(B) ancillary beneficial functions, includ-
2	ing maintenance of water quality, and recharge
3	of ground water
4	that reduce flood related damage;
5	"(11) the term 'erosion control measures' means
6	a community's efforts to control erosion through non-
7	structural and structural projects;
8	"(12) the term 'repetitive loss structure' means
9	an insured property that has incurred flood-related
10	damage on 2 occasions during a 10-year period end-
11	ing on the date of the event for which a second claim
12	is made, in which the cost of repair, on the average,
13	equaled or exceeded 25 percent of the value of the
14	structure at the time of each flood event;
15	"(13) the term 'cost of compliance with land use
16	and control measures' means—
17	"(A) the cost of elevating or floodproofing a
18	structure so that the structure is in compliance
19	with the minimum performance standards
20	adopted by the State or community pursuant to
21	section 1315 of the National Flood Insurance Act
22	of 1968, or
23	"(B) the cost of relocation or demolition of
24	the structure if the Director demonstrates that
25	the structure will collapse or subside as a result

1	of erosion within 30 years based on State erosion
2	data;
3	"(14) the term 'servicer' means any person who
4	receives any scheduled periodic payments from a bor-
5	rower pursuant to the terms of any loan secured by
6	a lien on real property, and who makes the payments
7	of principal and interest and such other payments
8	with respect to the amounts received from the bor-
9	rower as may be required.".
10	(b) Conforming Amendment.—Section 1322(d) of
11	the National Flood Insurance Act of 1968 (42 U.S.C.
12	4029(d)) is amended by striking "federally supervised, ap-
13	proved, regulated or insured financial institution" and in-
14	serting "regulated lending institution".
15	Subtitle B—Compliance and
16	Increased Participation
17	SEC. 621. EXPANDED FLOOD INSURANCE PURCHASE RE-
18	QUIREMENTS.
19	(a) In General.—Section 102(b) of the Flood Disas-
20	ter Protection Act of 1973 (42 U.S.C. 4012a(b)), as amend-
21	ed by section 611(b)(1), is amended—
22	(1) by striking "Each Federal entity" and in-
23	serting the following:
24	"(1) In GENERAL.—Each Federal entity";

1	(2) by inserting before "shall by regulation" the
2	following: "(after consultation and coordination with
3	the Federal Financial Institutions Examination
4	Council established under the Federal Financial In-
5	stitutions Examination Council Act of 1974)''; and
6	(3) by adding at the end the following new para-
7	graphs:
8	"(2) Procedures implemented by fnma,
9	FHLMC, AND FAMC.—The Federal National Mortgage
10	Association, the Federal Home Loan Mortgage Cor-
11	poration, and the Federal Agricultural Mortgage Cor-
12	poration shall implement procedures reasonably de-
13	signed to assure that each loan that is—
14	"(A) secured by improved real estate or a
15	manufactured home located in an area that has
16	been identified at the time of the origination of
17	the loan by the Director as an area of special
18	flood hazards and in which flood insurance is
19	available under the National Flood Insurance
20	Act of 1968; and
21	"(B) purchased by any such entity;
22	is covered for the term of the loan by flood insurance
23	in the amount provided in paragraph (1).
24	"(3) Procedures implemented by federal
25	AGENCY LENDERS.—Each Federal agency lender shall

1	implement procedures reasonably designed to assure
2	that all property—
3	"(A) that secures loans that the Federal
4	agency lender makes, increases, extends, or re-
5	news; and
6	"(B) that is improved by real estate or a
7	manufactured home located in an area that has
8	been identified at the time of the origination of
9	the loan by the Director as an area of special
10	flood hazards and in which flood insurance is
11	available under the National Flood Insurance
12	Act of 1968;
13	is covered for the term of the loan by flood insurance
14	in the amount provided in paragraph (1).
15	"(4) Definition.—For purposes of this section
16	property improved by real estate means insurable im-
17	provements on that property.".
18	(b) Effective Date.—The provisions of this section
19	shall apply to all transactions occurring after the expira-
20	tion of the 1-year period beginning on the date of enactment
21	of this title.
22	SEC. 622. ESCROW OF FLOOD INSURANCE PAYMENTS.
23	(a) In General.—Section 102 of the Flood Disaster
24	Protection Act of 1973 (42 U.S.C. 4012a) is amended by
25	adding at the end the following new subsection:

1 "(d) Escrow of Flood Insurance Payments.—

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"(1) By regulated lending institutions.— Each Federal entity for lending regulation, after consultation and coordination with the Federal Financial Institutions Examination Council, shall by regulation require that, if a regulated lending institution requires the escrowing of taxes, insurance premiums, fees, or any other charges for a loan secured by residential real estate or manufactured homes, all charges for flood insurance under this title for the property shall be paid by the borrower to the institution for the duration of the period during which the regulated lending institution maintains an escrow account. Upon receipt of a notice from the Director or the provider of the insurance that insurance premiums, fees, or other charges are due, the institution shall pay from the escrow account to the provider of the insurance the amount of insurance premiums, fees, or other charges owed.

"(2) By Federal agency lender requires the escrowing of taxes, insurance premiums, fees, or any other charges, then any charges for flood insurance under this title for the residential real estate or the manufactured home shall be paid by the borrower to the Federal agency lender

- 1 for the duration of the period during which the Fed-
- 2 eral agency lender maintains an escrow account.
- 3 Upon receipt of a notice from the Director or the pro-
- 4 vider of the insurance that insurance premiums, fees,
- 5 or other charges are due, the Federal agency lender
- 6 shall pay from the escrow account to the provider of
- 7 the insurance the amount of insurance premiums, fees
- 8 or other charges owed.
- 9 "(3) Applicability of real estate settle-
- 10 MENT PROCEDURES ACT.—Escrow accounts used to
- 11 collect flood insurance premiums, fees, or other
- charges under this subsection shall be subject to the
- provisions of section 10 of the Real Estate Settlement
- 14 Procedures Act of 1974.".
- 15 (b) APPLICABILITY.—Section 102(d) of the Flood Dis-
- 16 aster Protection Act of 1973, as added by subsection (a),
- 17 shall apply with respect to any loan made, increased, ex-
- 18 tended, or renewed after the expiration of the 1-year period
- 19 beginning on the date of enactment of this title.
- 20 SEC. 623. NOTICE REQUIREMENTS.
- 21 Section 1364 of the National Flood Insurance Act of
- 22 1968 (42 U.S.C. 4104a) is amended to read as follows:
- 23 "SEC. 1364. NOTICE REQUIREMENTS.
- 24 "(a) Lending Institutions.—Each Federal entity
- 25 for lending regulation, after consultation and coordination

- 1 with the Federal Financial Institutions Examination
- 2 Council, shall by regulation require that before a regulated
- 3 lending institution makes, increases, extends, or renews a
- 4 loan secured by improved real estate or a manufactured
- 5 home located in an area that has been identified by the Di-
- 6 rector as an area of special flood hazards, the institution
- 7 shall notify the borrower of the special flood hazards and
- 8 of the need to purchase and maintain flood insurance.
- 9 "(b) Federal Agency Lenders.—Before a Federal
- 10 agency lender makes, increases, extends, or renews a loan
- 11 secured by improved real estate or a manufactured home
- 12 located in an area that has been identified by the Director
- 13 as an area of special flood hazards, the Federal agency lend-
- 14 er shall notify the borrower of the special flood hazards and
- 15 of the need to purchase and maintain flood insurance.
- 16 "(c) Participating Communities.—The Director
- 17 shall by regulation require each participating community,
- 18 upon receiving the semiannual list prepared by the Director
- 19 of all revisions to and updates of flood insurance rate maps
- 20 made during the preceding 6 months, to determine whether
- 21 any properties in their community have been affected, and
- 22 to provide annual notice by mail, notice by publication,
- 23 notice on tax assessments, or notice by other reasonable
- 24 method, to regulated lending institutions that are known
- 25 to lend in the community, and to the owners of all prop-

1	erties newly determined to be, or no longer to be, in an
2	area of special flood hazards, of the flood insurance pur-
3	chase requirements under section 102(b).
4	"(d) Contents of Notice.—Notification required by
5	this section shall include a warning, in a form to be estab-
6	lished by the Director, stating that the real estate or manu-
7	factured home securing the loan is located in an area of
8	special flood hazards, a description of the flood insurance
9	purchase requirements under section 102(b), a statement
10	that flood insurance coverage may be purchased under the
11	National Flood Insurance Program and may also be avail-
12	able from private insurers, and any other information that
13	the Director considers necessary to carry out the purposes
	of the National Flood Insurance Program.".
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14	of the National Flood Insurance Program.".
14 15	of the National Flood Insurance Program.".  SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGU-
<ul><li>14</li><li>15</li><li>16</li></ul>	of the National Flood Insurance Program.".  SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL
<ul><li>14</li><li>15</li><li>16</li><li>17</li></ul>	of the National Flood Insurance Program.".  SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL  AGENCY LENDER, OR SERVICER.
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li></ul>	of the National Flood Insurance Program.".  SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL  AGENCY LENDER, OR SERVICER.  (a) REQUIRED ACTIONS BY LENDER.—Section 102 of
<ul><li>14</li><li>15</li><li>16</li><li>17</li><li>18</li><li>19</li></ul>	of the National Flood Insurance Program.".  SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL  AGENCY LENDER, OR SERVICER.  (a) REQUIRED ACTIONS BY LENDER.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C.
14 15 16 17 18 19 20	of the National Flood Insurance Program.".  SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL  AGENCY LENDER, OR SERVICER.  (a) REQUIRED ACTIONS BY LENDER.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by section 622(a), is amended by add-
14 15 16 17 18 19 20 21	of the National Flood Insurance Program.".  SEC. 624. PLACEMENT OF FLOOD INSURANCE BY REGULATED LENDING INSTITUTION, FEDERAL  AGENCY LENDER, OR SERVICER.  (a) REQUIRED ACTIONS BY LENDER.—Section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a), as amended by section 622(a), is amended by adding at the end the following new subsection:

other time during the term of a loan secured by im-

proved real estate or by a manufactured home located 1 2 in an area that has been identified by the Director as an area of special flood hazards and in which flood 3 insurance is available under this title, a regulated 5 lending institution, Federal agency lender, or servicer determines that the building or manufactured home 6 7 and any personal property securing the loan held or serviced by the regulated lending institution, Federal 8 agency lender, or servicer is not covered by flood in-9 10 surance, in an amount not less than the amount required by subsection (b)(1), the regulated lending institution, Federal agency lender, or servicer shall no-12 tify the borrower, in a form to be established by the 13 14 Director, that the borrower should obtain, at the bor-15 rower's expense, an amount of flood insurance that is not less than the amount required by subsection 16 17 (b)(1), for the term of the loan. If, not later than 45 18 days after receiving such notification, the borrower 19 fails to purchase such flood insurance, the regulated 20 lending institution, Federal agency lender, or servicer shall purchase the insurance on behalf of the borrower 22 and may charge the borrower for the cost of premiums 23 and fees incurred by the regulated lending institution, 24 Federal agency lender, or servicer in purchasing the 25 insurance.

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1 "(2) REVIEW.—
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"(A) By the director.—A borrower may request, based upon the submission of supporting technical data, that the Director review a determination that the improved real estate or manufactured home securing the loan is located in an area of special flood hazards. Not later than 45 days after the Director receives the request, the Director shall review the determination and provide the borrower with a letter stating whether or not the property is in an area of special flood hazards. The determination of the Director shall be final. If the Director fails to respond to a request within 45 days, the property shall be deemed not to be located in an area having special flood hazards.

"(B) Insurance not required.—If a person is provided by the borrower with a letter issued by the Director pursuant to subparagraph (A) during the preceding 1-year period, stating that the property is not in an area of special flood hazards, such person shall have no obligation under this title to require the purchase of flood insurance on the property."

(b) APPLICABILITY.—

1	(1) In general.—Except as provided in para-
2	graph (2), section 102(e) of the Flood Disaster Protec-
3	tion Act of 1973, as added by subsection (a), shall
4	apply to all loans outstanding on or after the date of
5	enactment of this title.
6	(2) Loans regulated by the farm credit
7	ADMINISTRATION.—With respect to loans held by in-
8	stitutions regulated by the Farm Credit Administra-
9	tion, section 102(e) of the Flood Disaster Protection
10	Act of 1973, as added by subsection (a), shall apply
11	only to loans originating on or after the date of enact-
12	ment of this title.
13	SEC. 625. STANDARD FLOOD HAZARD DETERMINATION
<ul><li>13</li><li>14</li></ul>	SEC. 625. STANDARD FLOOD HAZARD DETERMINATION FORMS.
14	FORMS.
<ul><li>14</li><li>15</li><li>16</li></ul>	FORMS.  (a) In General.—Chapter III of the National Flood
14 15 16 17	FORMS.  (a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended
14 15 16 17	FORMS.  (a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:
14 15 16 17 18	FORMS.  (a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:  "SEC. 1365. STANDARD FLOOD HAZARD DETERMINATION
14 15 16 17 18	FORMS.  (a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:  "SEC. 1365. STANDARD FLOOD HAZARD DETERMINATION FORMS.
14 15 16 17 18 19 20	FORMS.  (a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:  "SEC. 1365. STANDARD FLOOD HAZARD DETERMINATION FORMS.  "(a) DEVELOPMENT.—The Director, in consultation with the Federal entities for lending regulation, and after
14 15 16 17 18 19 20 21 22	FORMS.  (a) IN GENERAL.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:  "SEC. 1365. STANDARD FLOOD HAZARD DETERMINATION FORMS.  "(a) DEVELOPMENT.—The Director, in consultation with the Federal entities for lending regulation, and after
14 15 16 17 18 19 20 21 22 23	FORMS.  (a) In General.—Chapter III of the National Flood Insurance Act of 1968 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new section:  "SEC. 1365. STANDARD FLOOD HAZARD DETERMINATION FORMS.  "(a) Development.—The Director, in consultation with the Federal entities for lending regulation, and after notice and comment, shall develop a standard flood hazard

- 1 located in an area of special flood hazards and in which
- 2 flood insurance is available under this title. The determina-
- 3 tion form may be maintained in a printed, computerized,
- 4 or electronic manner.
- 5 "(b) Design and Contents.—The determination
- 6 form shall state whether the property is in an area of spe-
- 7 cial flood hazards, the risk premium rate classification es-
- 8 tablished for the special flood hazard area in which the
- 9 property is located, the complete map and panel numbers
- 10 for the property, and the date of the map used for the deter-
- 11 mination. If the complete map and panel numbers for the
- 12 property are not available because the property is not lo-
- 13 cated in a community that is participating in the National
- 14 Flood Insurance Program or because no map exists for the
- 15 relevant area, the determination form shall so state.
- 16 "(c) Required Use.—Each Federal entity for lending
- 17 regulation shall by regulation require the use of the deter-
- 18 mination form by regulated lending institutions. Each Fed-
- 19 eral agency lender shall by regulation provide for the use
- 20 of the determination form. The Federal National Mortgage
- 21 Association, the Federal Home Loan Mortgage Corporation,
- 22 and the Federal Agricultural Mortgage Corporation shall
- 23 require use of the determination form by any person from
- 24 whom they purchase loans.

- 1 "(d) Guarantees Regarding Information.—In re-
- 2 cording information on a determination form, a person
- 3 may rely on information provided by a third party to the
- 4 extent that the third party guarantees the accuracy of the
- 5 information.
- 6 "(e) Reliance on Previous Determination.—A
- 7 person or institution increasing, extending, renewing, or
- 8 purchasing a loan may rely on a previous determination
- 9 as to whether property is in a special flood hazard area,
- 10 if the previous determination was made not more than 5
- 11 years before the date of the transaction, and the basis for
- 12 the previous determination has been set forth on a deter-
- 13 mination form.".
- 14 (b) Applicability.—Section 1365 of the National
- 15 Flood Insurance Act of 1968, as added by subsection (a),
- 16 shall apply to all loans originated on or after the expiration
- 17 of the 6-month period beginning on the date the standard
- 18 flood hazard determination form is finalized by the Direc-
- 19 tor.
- 20 SEC. 626. EXAMINATIONS REGARDING COMPLIANCE BY
- 21 **REGULATED LENDING INSTITUTIONS.**
- 22 (a) Amendment to Federal Deposit Insurance
- 23 Act.—Section 10 of the Federal Deposit Insurance Act (12
- 24 U.S.C. 1820) is amended by adding at the end the following
- 25 new subsection:

- 1 "(h) Flood Hazard Insurance Compliance by In-2 sured Depository Institutions Required.—
- "(1) Examinations.—The appropriate Federal banking agency shall, during each scheduled on-site examination required by this section, determine whether the insured depository institution is complying with the requirements of the National Flood Insurance Program.
  - "(2) Report.—Not later than 1 year after the date of enactment of the National Flood Insurance Reform Act of 1994, and biannually thereafter for the next 4 years, each appropriate Federal banking agency shall submit a report to Congress on compliance by insured depository institutions with the requirements of the National Flood Insurance Program. The report shall include a description of the methods used to determine compliance, the number of institutions examined during the reporting year, a listing and total number of institutions found to be in noncompliance, actions taken to correct incidents of noncompliance, and an analysis of compliance, including a discussion of any trends, patterns, and problems, and recommendations regarding reasonable actions to improve the efficiency of the examinations processes.".

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- 1 (b) Amendment to the Federal Credit Union
- 2 ACT.—Section 204 of the Federal Credit Union Act (12
- 3 U.S.C. 1784) is amended by adding at the end the following
- 4 new subsection:
- 5 "(e) Flood Hazard Insurance Compliance by In-
- 6 SURED CREDIT UNIONS REQUIRED.—
- 7 "(1) Examination.—The Board shall, during 8 each examination conducted under this section, deter-9 mine whether the insured credit union is complying 10 with the requirements of the National Flood Insur-11 ance Program.
- "(2) Report.—Not later than 1 year after the 12 date of enactment of the National Flood Insurance 13 14 Reform Act of 1994, and biannually thereafter for the 15 next 4 years, the Board shall submit a report to Congress on compliance by insured credit unions with the 16 17 requirements of the National Flood Insurance Pro-18 gram. The report shall include a description of the 19 methods used to determine compliance, the number of 20 insured credit unions examined during the reporting year, a listing and total number of insured credit 21 22 unions found to be in noncompliance, actions taken to correct incidents of noncompliance, and an analy-23 sis of compliance, including a discussion of any 24 25 trends, patterns, and problems, and recommendations

1	regarding reasonable actions to improve the efficiency
2	of the examinations processes.".
3	SEC. 627. PENALTIES AND CORRECTIVE ACTIONS FOR FAIL-
4	URE TO REQUIRE FLOOD INSURANCE, ES-
5	CROW, OR NOTIFY.
6	Section 102 of the Flood Disaster Protection Act of
7	1973 (42 U.S.C. 4012a), as amended by sections 622 and
8	624, is amended by adding at the end the following new
9	subsections:
10	"(f) Civil Penalties.—
11	"(1) In general.—A regulated lending institu-
12	tion that is found to have a pattern or practice of vio-
13	lating this section may be assessed a civil penalty by
14	the appropriate Federal entity for lending regulation
15	of not more than \$350 for each such violation. A pen-
16	alty under this subsection may be issued only after
17	notice and an opportunity for a hearing on the
18	record.
19	"(2) Total amount.—The total amount of pen-
20	alties assessed under this subsection against a single
21	regulated lending institution for any calendar year
22	may not exceed \$100,000.
23	"(3) Sales or transfers.—The subsequent
24	sale or other transfer of a loan by a regulated lending
25	institution that has committed a violation of this sec-

1	tion shall not affect the liability of the transferring
2	institution with respect to any penalty under this
3	subsection. An institution shall not be liable for a vio-
4	lation relating to a loan committed by another insti-
5	tution that previously held the loan.
6	"(4) 3-YEAR LIMIT.—No penalty may be imposed
7	under this subsection after the expiration of the 3-
8	year period beginning on the date of the occurrence
9	of the violation.
10	"(g) Additional Actions.—If a Federal entity for
11	lending regulation determines—
12	"(1) that a regulated lending institution has
13	demonstrated a pattern and practice of noncompli-
14	ance in violation of the regulations issued pursuant
15	to subsection (b) or subsection (d) or the notice re-
16	quirements under section 1364 of the National Flood
17	Insurance Act of 1968; and
18	"(2) that the regulated lending institution has
19	not demonstrated measurable improvement in compli-
20	ance despite the issuance of penalties under subsection
21	(f);
22	the agency may require the regulated lending institution
23	to take such remedial actions as are necessary to ensure
24	that the regulated lending institution is in satisfactory com-

- 1 pliance with the requirements of the National Flood Insur-
- 2 ance Program.".
- 3 SEC. 628. FINANCIAL INSTITUTIONS EXAMINATION COUN-
- 4 *CIL*.
- 5 Section 1006 of the Federal Financial Institutions Ex-
- 6 amination Council Act of 1978 (12 U.S.C. 3305) is amend-
- 7 ed by adding at the end the following new subsection:
- 8 "(g) Flood Insurance.—The Council shall consult
- 9 with and assist the Federal entities for lending regulation,
- 10 as such term is defined in section 1370(a)(7) of the National
- 11 Flood Insurance Act of 1968, in developing and coordinat-
- 12 ing uniform standards and requirements for use by regu-
- 13 lated lending institutions under the National Flood Insur-
- 14 ance Program.".
- 15 SEC. 629. CONFORMING AMENDMENT.
- 16 The section heading for section 102 of the Flood Disas-
- 17 ter Protection Act of 1973 (42 U.S.C. 4012a) is amended
- 18 to read as follows:

1	"FLOOD INSURANCE PURCHASE AND COMPLIANCE
2	REQUIREMENTS AND ESCROW ACCOUNTS".
3	Subtitle C—Ratings and Incentives
4	for Community Floodplain Man-
5	agement Programs
6	SEC. 631. COMMUNITY RATING SYSTEM AND INCENTIVES
7	FOR COMMUNITY FLOODPLAIN MANAGE-
8	MENT.
9	(a) Requirement for Participation in Flood In-
10	SURANCE PROGRAM.—Section 1315 of the National Flood
11	Insurance Act of 1968 (42 U.S.C. 4022) is amended—
12	(1) by striking the section heading and inserting
13	the following:
14	"SEC. 1315. STATE AND LOCAL LAND USE CONTROLS.";
15	(2) by striking "After December" and inserting
16	the following:
17	"(a) Requirement for Participation in Flood In-
18	SURANCE PROGRAM.—After December''; and
19	(3) by adding at the end the following new sub-
20	section:
21	"(b) Community Rating System and Incentives
22	for Community Floodplain Management.—
23	"(1) Authority and goals.—The Director
24	shall carry out a community rating system program
25	to evaluate the measures adopted by communities vol-

untarily participating in the community rating system, to provide incentives for measures to reduce the risk of flood or erosion damage that exceed the criteria set forth in section 1361, to encourage adoption of more effective measures to protect natural and beneficial floodplain functions, floodplain and erosion management, and to promote the reduction of Federal flood insurance losses.

"(2) Incentives.—The program shall provide incentives in the form of credits on premium rates for flood insurance coverage in communities that the Director determines have adopted and enforced measures to reduce the risk of flood and erosion damage that exceed the criteria set forth in section 1361. In providing incentives under this paragraph, the Director may provide for credits to flood insurance premium rates in communities that the Director determines have—

"(A) implemented measures to protect natural and beneficial floodplain functions; and "(B) adopted erosion control measures.

"(3) CREDITS.—The credits on premium rates for flood insurance coverage shall be based on the estimated reduction in flood and erosion damage risks resulting from the measures adopted by the community

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1	under this program. If a community has received
2	mitigation assistance under section 1366, the credits
3	shall be phased-in as determined by the Director.".
4	(b) Reports.—Two years after the date of enactment
5	of this title and biannually thereafter, the Director shall
6	submit a report to the Congress regarding the program
7	under section 1315(a) of the National Flood Insurance Act
8	of 1968. Each report shall include an analysis of the cost-
9	effectiveness and other accomplishments and shortcomings
10	of the program and any recommendations of the Director
11	for legislation regarding the program.
12	SEC. 632. FUNDING.
13	Section 1310(a) of the National Flood Insurance Act
14	of 1968 (42 U.S.C. 4017(a)) is amended—
15	(1) in paragraph (4), by striking "and" at the
16	end;
17	(2) in paragraph (5), by striking the period at
18	the end and inserting a semicolon; and
19	(3) by adding after paragraph (5) the following
20	new paragraph:
21	"(6) for carrying out the program under section
22	1315(b);".
23	SEC. 633. REASONABLE FEES.

25 making a flood insurance determination.

A lender may charge a borrower a reasonable fee for

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1	Subtitie D-Mitigation of Flood and
2	Erosion Risks
3	SEC. 641. MITIGATION ASSISTANCE IN FEDERAL INSUR-
4	ANCE ADMINISTRATION.
5	Section 1105(a) of the Housing and Urban Develop-
6	ment Act of 1968 (42 U.S.C. 4129) is amended—
7	(1) by striking "(a) There is hereby" and insert-
8	ing the following:
9	"(a) Establishment.—There is hereby"; and
10	(2) by striking subsection (b) and inserting the
11	following:
12	"(b) Coordination of Mitigation Activities.—The
13	Director shall coordinate all mitigation activities, includ-
14	ing the administration of the program for mitigation assist-
15	ance under section 1367. These activities shall include the
16	development and implementation of various mitigation ac-
17	tivities and techniques, the provision of advice and assist-
18	ance regarding mitigation to States, communities, and in-
19	dividuals, including planning assistance under section
20	1367(d), coordination with other Federal flood and erosion
21	mitigation efforts, and coordination with State and local
22	governments and public and private agencies and organiza-
23	tions for collection and dissemination of information re-
24	garding erosion.''.

1	SEC. 642. AUTHORIZATION OF NATIONAL FLOOD AND ERO-
2	SION MITIGATION FUNDS UNDER SECTION
3	1362.
4	Chapter III of the National Flood Insurance Act of
5	1968 (42 U.S.C. 4101 et seq.), as amended by section 625,
6	is amended by adding at the end the following new section:
7	"SEC. 1366. NATIONAL FLOOD AND EROSION MITIGATION
8	PROGRAM.
9	"(a) Expenditures.—For flood and erosion mitiga-
10	tion activities authorized under section 1367, the Director
11	may expend from the National Flood Insurance Fund—
12	"(1) up to \$10,000,000 in the fiscal year ending
13	September 30, 1994;
14	"(2) up to \$15,000,000 in the fiscal year ending
15	September 30, 1995;
16	"(3) up to \$20,000,000 in the fiscal year ending
17	September 30, 1996;
18	"(4) up to \$20,000,000 in each fiscal year there-
19	after; and
20	"(5) any amounts recaptured under section
21	1367(i).
22	"(b) Report.—Not later than 1 year after the date
23	of enactment of the National Flood Insurance Reform Act
24	of 1994 and biannually thereafter, the Director shall submit
25	a report to the Congress describing the status of flood and

- 1 erosion mitigation activities carried out with funds author-
- 2 ized under this section.".
- 3 SEC. 643. STATE AND COMMUNITY MITIGATION ASSISTANCE
- 4 **PROGRAM.**
- 5 (a) IN GENERAL.—Chapter III of the National Flood
- 6 Insurance Act of 1968 (42 U.S.C. 4101 et seq.), as amended
- 7 by sections 625 and 642, is amended by adding at the end
- 8 the following new section:
- 9 "SEC. 1367. STATE AND COMMUNITY MITIGATION ASSIST-
- 10 **ANCE.**
- 11 "(a) AUTHORITY.—The Director shall develop and im-
- 12 plement a financial assistance program with amounts made
- 13 available under section 1366 to States and communities for
- 14 planning and activities designed to reduce the risk of flood
- 15 and erosion damage to insured structures and to protect
- 16 natural and beneficial floodplain functions.
- 17 "(b) MITIGATION PLAN REQUIREMENT.—To be eligible
- 18 to receive financial mitigation assistance, a State or com-
- 19 munity shall develop, and have approved by the Director,
- 20 a flood and erosion risk mitigation plan (hereafter in this
- 21 section referred to as a 'mitigation plan'), that is consistent
- 22 with the criteria established by the Director under section
- 23 1361. The mitigation plan shall include a comprehensive
- 24 strategy for mitigation activities adopted by the State or
- 25 community following a public hearing.

1	"(c) Notification of Approval.—Not later than 120
2	days after the submission of a mitigation plan, the Director
3	shall notify the State or community submitting the plan
4	of the Director's approval or disapproval of the plan. If the
5	Director does not approve a plan, the Director shall notify
6	the State or community in writing of the reasons for such
7	disapproval.
8	"(d) Planning Assistance.—
9	"(1) In GENERAL.—The Director shall make
10	planning assistance available to States and commu-
11	nities for developing mitigation plans.
12	"(2) Funding.—From any amounts made avail-
13	able for use under section 1366 of the National Flood
14	Insurance Act of 1968 in any fiscal year, the Director
15	may use not more than \$1,500,000 to provide plan-
16	ning assistance grants to States or communities to de-
17	velop mitigation plans under this subsection.
18	"(3) Limitations.—
19	"(A) Timing.—A grant for planning assist-
20	ance may be awarded to a State or community
21	once every 5 years and each grant may cover a
22	period of 1 to 3 years.
23	"(B) AMOUNT.—A grant for planning as-
24	sistance may not exceed—
25	"(i) \$150,000, to any State; or

1	"(ii) \$50,000, to any community.
2	"(C) Geographic.—Not more than
3	\$300,000 may be awarded to any 1 State and all
4	communities located in that State for planning
5	assistance in each fiscal year.
6	"(e) Eligible Mitigation Activities.—The Director
7	shall determine eligibility for assistance under this section
8	for mitigation activities that shall be technically feasible
9	and cost-effective. These activities may include—
10	"(1) elevation, relocation, demolition, or
11	floodproofing of structures;
12	"(2) the construction, repair, or restoration of
13	levees, seawalls, and other structures that reduce the
14	risk of flood damage;
15	"(3) erosion control measures including beach
16	nourishment;
17	"(4) acquisition by States and communities of
18	property substantially damaged by flood for public
19	use as the Director determines is consistent with
20	sound land management and use in such area; and
21	"(5) the provision of technical assistance by
22	States to communities and individuals to conduct eli-
23	gible mitigation activities.
24	"(f) Limitations on Mitigation Assistance.—

1	"(1) Amount.—The amount of mitigation assist-
2	ance provided under subsection (e) may not exceed in
3	any 5-year period—
4	"(A) \$10,000,000, to any State; or
5	"(B) \$3,300,000, to any community.
6	"(2) Geographic.—Not more than \$20,000,000
7	may be awarded to any 1 State and all communities
8	located in that State for mitigation assistance in any
9	5-year period.
10	"(g) Matching Requirement.—The Director may
11	provide mitigation assistance to a State or community in
12	an amount not to exceed 3 times the amount that the State
13	or community certifies, as the Director shall require, that
14	the State or community will contribute from other funds
15	to carry out mitigation planning under subsection (d) and
16	eligible activities under subsection (e).
17	"(h) Oversight of Mitigation Plans.—The Direc-
18	tor shall conduct oversight of recipients of mitigation assist-
19	ance to ensure that the mitigation assistance is used in com-
20	pliance with approved plans.
21	"(i) Recapture.—If the Director determines that a
22	State or community that has received mitigation assistance
23	has not carried out the mitigation activities as set forth
24	in the mitigation plan, the Director shall recapture any un-
25	expended amounts and deposit the amounts in the Fund.

1	"(j) Definition of Community.—For purposes of
2	this section, the term 'community' means a political sub-
3	division that has zoning and building code jurisdiction over
4	a particular area of special flood hazards, and that is par-
5	ticipating in the National Flood Insurance Program.
6	"(k) Preferences for Mitigation Grants to Com-
7	MUNITIES.—
8	"(1) Cost-Benefificial Plans.—In providing
9	mitigation grants to communities under this section,
10	the Director shall give preference to communities with
11	mitigation plans that are the most cost-beneficial to
12	the Flood Insurance Fund.
13	"(2) Additional Criteria.—Subject to para-
14	graph (1), the Director will also give preference to
15	communities that—
16	"(A) have the highest rates of participation
17	by property owners in the Federal flood insur-
18	ance program;
19	"(B) have qualified for credits on premium
20	rates under section 1315(b); and
21	"(C) have experienced repetitive losses that
22	have been most costly to the Fund.".
23	(b) Regulations.—Not later than 6 months after date
24	of enactment of this title, the Director shall issue regulations

- 1 implementing section 1367 of the National Flood Insurance
- 2 Act of 1968, as added by subsection (a).
- 3 SEC. 644. REPEAL OF PROGRAM FOR PURCHASE OF CER-
- 4 TAIN INSURED PROPERTIES.
- 5 (a) Repeal.—Section 1362 of the National Flood In-
- 6 surance Act of 1968 (42 U.S.C. 4103) is repealed.
- 7 (b) Transition.—Notwithstanding the repeal under
- 8 subsection (a), the Director may continue to purchase prop-
- 9 erty under subsections (a) and (b) of section 1362 of the
- 10 National Flood Insurance Act of 1968, as such section ex-
- 11 isted immediately before the date of enactment of this title,
- 12 for a period of 1 year beginning on the date of enactment
- 13 of this title.
- 14 SEC. 645. TERMINATION OF EROSION THREATENED STRUC-
- 15 TURES PROGRAM.
- 16 (a) In General.—Section 1306 of the National Flood
- 17 Insurance Act of 1968 (42 U.S.C. 4013) is amended by
- 18 striking subsection (c).
- 19 (b) Transition.—The Director may pay amounts
- 20 under flood insurance contracts for demolition or relocation
- 21 of structures as provided in section 1306(c) of the National
- 22 Flood Insurance Act of 1968 (as in effect immediately before
- 23 the date of enactment of this title) only during the 1-year
- 24 period beginning on the date of enactment of this title.

1	SEC. 646. CONGRESSIONAL FINDINGS AND DECLARATION
2	OF PURPOSE UNDER THE NATIONAL FLOOD
3	INSURANCE ACT OF 1968.
4	Section 1302 of the National Flood Insurance Act of
5	1968 (42 U.S.C. 4001) is amended by striking subsection
6	(g).
7	Subtitle E—Flood Insurance Task
8	<b>Force</b>
9	SEC. 651. FLOOD INSURANCE INTERAGENCY TASK FORCE.
10	(a) Establishment.—There is established an inter-
11	agency task force to be known as the Flood Insurance Task
12	Force (hereafter in this title referred to as the "Task
13	Force'').
14	(b) Membership.—
15	(1) In general.—The Task Force shall consist
16	of 13 members, who shall be the designees of—
17	(A) the Director;
18	(B) the Federal Housing Commissioner;
19	(C) the Secretary of Veterans Affairs;
20	(D) the Administrator of the Farmers Home
21	Administration;
22	(E) the Administrator of the Small Busi-
23	ness Administration;
24	(F) each member of the Federal Financial
25	Institutions Examination Council

1	(G) the chairman of the Board of Directors
2	of the Federal Home Loan Mortgage Corpora-
3	tion;
4	(H) the chairman of the Board of Directors
5	of the Federal National Mortgage Association;
6	and
7	(I) the chairman of the Federal Agricultural
8	Mortgage Corporation.
9	(2) Qualifications.—Members of the Task
10	Force shall be designated for membership on the Task
11	Force by reason of demonstrated knowledge and com-
12	petence regarding the National Flood Insurance Pro-
13	gram.
14	(c) Duties.—The Task Force shall—
15	(1) make recommendations to the head of each
16	Federal agency and corporation referred to under sub-
17	section (b)(1) regarding the establishment or adoption
18	of standardized enforcement procedures among such
19	agencies and corporations responsible for enforcing
20	compliance with the requirements under the National
21	Flood Insurance Program to ensure the fullest possible
22	compliance with such requirements;
23	(2) study the extent to which Federal agencies
24	and the secondary mortgage market can provide as-

1	sistance in ensuring compliance with the require-
2	ments under the National Flood Insurance Program;
3	(3) study the extent to which existing programs
4	of Federal agencies and corporations for compliance
5	with the requirements under the National Flood In-
6	surance Program can serve as a model for other Fed-
7	eral agencies responsible for enforcing compliance,
8	and submit to the Congress a report describing the
9	study and any conclusions;
10	(4) study—
11	(A) the extent to which the flood insurance
12	premium rate structure could be revised to—
13	(i) minimize existing premium rate
14	subsidies;
15	(ii) reduce or eliminate disaster assist-
16	ance payments in high-risk erosion areas;
17	(iii) incorporate premium rate adjust-
18	ments for erosion hazards; and
19	(iv) account for catastrophic loss
20	events; and
21	(B) how changes in the premium rate struc-
22	ture could potentially impact other Federal dis-
23	aster assistance programs;
24	(5) propose strategies to establish an actuarial-
25	based premium structure to account for all insurable

- 1 risks identified under the National Flood Insurance
- 2 Act of 1968, as amended by this title; and
- 3 (6) develop guidelines regarding enforcement and
- 4 compliance procedures, based on the studies and find-
- 5 ings of the Task Force and publishing the guidelines
- 6 in a usable format.
- 7 (d) Reports.—Not later than 2 years after the date
- 8 of enactment of this title, the Task Force shall transmit to
- 9 the Congress a report describing its studies and any conclu-
- 10 sions.
- 11 (e) Compensation.—Members of the Task Force shall
- 12 receive no additional compensation by reason of their serv-
- 13 ice on the Task Force.
- 14 (f) Chairperson.—The Director shall select 1 member
- 15 to serve as the chairperson of the Task Force (hereafter in
- 16 this section referred to as the "Chairperson").
- 17 (g) Meetings and Action.—The Task Force shall
- 18 meet at the call of the Chairperson or a majority of the
- 19 members of the Task Force and may take action by a vote
- 20 of the majority of the members. The Federal Insurance Ad-
- 21 ministrator shall coordinate and call the initial meeting of
- 22 the Task Force.
- 23 (h) Officers.—The Chairperson may appoint officers
- 24 to carry out the duties of the Task Force under subsection
- 25 *(c)*.

1	(i) Staff of Federal Agencies.—Upon the request
2	of the Chairperson, the head of any of the Federal agencies
3	and corporations referred to in subsection (b)(1) may detail,
4	on a nonreimbursable basis, any of the personnel of the
5	agency to the Task Force to assist the Task Force in carry-
6	ing out its duties under this title.
7	(j) Powers.—In carrying out this section, the Task
8	Force may hold hearings, sit and act at times and places,
9	take testimony, receive evidence and assistance, provide in-
10	formation, and conduct research as the Task Force considers
11	appropriate.
12	(k) Termination.—The Task Force shall terminate 2
13	years after the date on which all members of the Task Force
14	have been designated under subsection (b)(1).
15	Subtitle F—Miscellaneous
16	<b>Provisions</b>
17	SEC. 661. MAXIMUM FLOOD INSURANCE COVERAGE
18	AMOUNTS.
19	(a) In General.—Section 1306(b) of the National
20	Flood Insurance Act of 1968 (42 U.S.C. 4013(b)) is amend-
21	ed—
22	(1) in paragraph (1)(A)—
23	(A) by inserting "and" at the end of clause
24	(i); and
25	(B) by striking clause (iii);

1	(2) by striking subparagraph (B) of paragraph
2	(1) and inserting the following new subparagraph:
3	"(B) in the case of any nonresidential prop-
4	erty, including churches—
5	"(i) \$100,000 aggregate liability for
6	each structure; and
7	"(ii) \$100,000 aggregate liability for
8	any contents related to each structure; ";
9	(3) by striking subparagraph (C) of paragraph
10	(1);
11	(4) in paragraph (2), by striking "so as to en-
12	able" and all that follows through the end of the para-
13	graph and inserting "up to an amount, including the
14	limits specified in clause (i) of paragraph (1)(A), of
15	\$250,000 multiplied by the number of dwelling units
16	in the building;";
17	(5) in paragraph (3), by striking "so as to en-
18	able" and all that follows through the end of the para-
19	graph and inserting ''up to an amount of \$90,000 for
20	any single-family dwelling and \$240,000 for any resi-
21	dential structure containing more than one dwelling
22	unit;''; and
23	(6) by striking paragraph (4) and inserting the
24	following new paragraph:

1	"(4) in the case of any nonresidential property,
2	including churches, additional flood insurance in ex-
3	cess of the limits specified in clauses (i) and (ii) of
4	paragraph (1)(B) shall be made available to every in-
5	sured upon renewal and every applicant for insur-
6	ance up to an amount of \$2,400,000 for each struc-
7	ture and \$2,400,000 for any contents related to each
8	structure; and".
9	(b) Actuarial Risk Premiums on Repetitive Loss
10	Structures.—Section 1306(b) of the National Flood In-
11	surance Act of 1968 (42 U.S.C. 4013(b)) is amended—
12	(1) in paragraph (5), by striking ''and'' at the
13	end; and
14	(2) by striking paragraph (6) and inserting the
15	following new paragraph:
16	"(6) upon determining that a property is a re-
17	petitive loss structure, and after making a payment
18	to the insured under section 1304(e), the Director
19	shall charge the applicable risk premium rate for
20	flood insurance based on consideration of the risk in-
21	volved and accepted actuarial principles under sec-
22	tion 1307(a)(1), except that the Director may not in-
23	crease the premium rate above the level authorized in
24	paragraph (7); and''.

1	(c) Annual 10-Percent Premium Rate Increase
2	CAP.—Section 1306(b) of the National Flood Insurance Act
3	of 1968 (42 U.S.C. 4013(b)) is amended by adding at the
4	end the following:
5	"(7) the Director may not increase the premium
6	rate applied to a structure in any 12-month period
7	by more than 10 percent over the rate previously ap-
8	plied to that structure during the preceding 12-month
9	period.''.
10	(d) Conforming Amendments.—Section 1306(b)(5)
11	of the National Flood Insurance Act of 1968 (42 U.S.C.
12	4013(b)(5)) is amended—
13	(1) by striking "(A), (B), or (C)" and inserting
14	"(A) or (B)"; and
15	(2) by striking "(1)(C),".
16	SEC. 662. ADDITIONAL COVERAGE FOR COMPLIANCE WITH
17	LAND USE AND CONTROL MEASURES
18	(a) In General.—Section 1304 of the National Flood
19	Insurance Act of 1968 (42 U.S.C. 4011) is amended—
20	(1) by redesignating subsection (b) as subsection
21	(c); and
22	(2) by inserting after subsection (a) the following
23	new subsection:
24	"(b) The national flood insurance program established
25	pursuant to subsection (a) shall enable the purchase of in-

1	surance to cover the cost of compliance with land use and
2	control measures for—
3	"(1) properties that are repetitive loss structures;
4	"(2) properties that have flood damage in which
5	the cost of repairs equals or exceeds 50 percent of the
6	value of the structure at the time of the flood event;
7	and
8	"(3) properties that have sustained flood damage
9	on multiple occasions, if the Director determines that
10	it is cost-effective and in the best interests of the Na-
11	tional Flood Insurance Fund to require compliance
12	with the land use and control measures.
13	The Director shall impose a surcharge on each insured of
14	not more than \$50 per policy to provide cost of compliance
15	coverage in accordance with the provisions of this sub-
16	section.".
17	(b) Applicability.—The provisions of subsection (a)
18	shall apply only to structures that sustain flood-related
19	damage after the date of enactment of this title.
20	SEC. 663. FLOOD INSURANCE PROGRAM ARRANGEMENTS
21	WITH PRIVATE INSURANCE ENTITIES.
22	Section 1345(b) of the National Flood Insurance Act
23	of 1968 (42 U.S.C. 4081(b)) is amended by striking the pe-
24	riod at the end and inserting the following: "and without

regard to the provisions of the Federal Advisory Committee Act.". SEC. 664. UPDATING OF FLOOD INSURANCE RATE MAPS. 4 Section 1360 of the National Flood Insurance Act of 1968 (42 U.S.C. 4101) is amended by adding at the end the following new subsections: 6 "(e) Assessment of Need To Update Areas.— 7 8 "(1) Periodic assessments.—Not less than once during each 5-year period (the first such period 9 beginning on the date of enactment of the National 10 Flood Insurance Reform Act of 1994), or more often 11 as the Director determines necessary, the Director 12 13 shall assess the need to revise and update each flood insurance rate map, based on an analysis of all natu-14 15 ral hazards affecting flood risks. "(2) UPON REQUEST.—Upon the request of a 16 17 State or community stating that a flood insurance 18 rate map needs revision or updating, the Director 19 shall review and update the flood insurance rate map 20 for the State or community. The Director may require the State or community to pay a portion of the cost 21 22 of updating the map. "(f) AVAILABILITY.—To promote compliance with the 23

requirements of this title, the Director shall make flood in-

surance rate maps and related information available free

- 1 of charge to Federal agencies and to State agencies directly
- $2\,$  responsible for coordinating the National Flood Insurance
- 3 Program and to appropriate representatives of communities
- 4 participating in the National Flood Insurance Program,
- 5 and at a reasonable cost to all other persons pursuant to
- 6 section 1310.
- 7 "(g) Notification.—The Director shall publish in the
- 8 Federal Register or by other comparable method, notice of
- 9 each revision to or update of a flood insurance rate map,
- 10 issued in the form of a Letter of Map Amendment or Letter
- 11 of Map Revision. Each map revision or update shall become
- 12 effective upon publication. Such comparable methods shall
- 13 include all pertinent information, provide for regular and
- 14 frequent distribution, and be at least as accessible to map
- 15 users as the Federal Register. Notices published in the Fed-
- 16 eral Register, or otherwise, shall also include information
- 17 on how to obtain copies of the revisions or updates.
- 18 "(h) Availability.—On March 1 and October 1 of
- 19 each year, the Director shall publish separately and make
- 20 available in their entirety within a compendium, all revi-
- 21 sions to and updates of flood insurance rate maps and all
- 22 Letters of Map Amendment and Letters of Map Revision
- 23 that were published in the Federal Register or distributed
- 24 through other comparable methods during the preceding 6
- 25 months, free of charge, to Federal agencies, States, and com-

1	munities participating in the National Flood Insurance
2	Program pursuant to section 1310 and at cost to all other
3	persons.''.
4	SEC. 665. EVALUATION OF EROSION HAZARDS.
5	(a) In General.—As soon as practicable and not
6	later than 2 years after the date of enactment of this Act,
7	the Director shall submit to Congress a report—
8	(1) listing all communities that are likely to be
9	identified as having an erosion hazard areas;
10	(2) estimating the amount of flood insurance
11	claims attributable to erosion;
12	(3) assessing the full economic impact of erosion
13	on the National Flood Insurance Fund;
14	(4) measuring the costs and benefits of expendi-
15	tures necessary from the National Flood Insurance
16	Fund to complete mapping of erosion hazard areas.
17	(b) Authorization To Map Erosion Hazard
18	Areas.—In developing an estimate of the amount of flood
19	insurance claims attributable to erosion pursuant to sub-
20	section (a), the Director is authorized to map a statistically
21	valid and representative number of communities with ero-
22	sion hazard areas throughout the United States, including
23	coastal, Great Lakes and riverine areas.
24	(c) Economic Impact Study.—The report required
25	under subsection (a)—

1	(1) shall assess the economic impact of—
2	(A) erosion on communities likely to be
3	identified as having erosion hazard areas; and
4	(B) the denial of flood insurance and the es-
5	tablishment of actuarial rates in communities
6	likely to be identified as having erosion hazard
7	areas;
8	(2) shall be prepared by an independent private
9	sector firm;
10	(3) provide for consultation with a statistically
11	valid and representative number of communities like-
12	ly to be identified as having erosion hazard areas;
13	and
14	(4) address all significant economic factors, in-
15	cluding the impact on—
16	(A) the value of residential and commercial
17	properties in communities with erosion hazards;
18	(B) community tax revenues due to poten-
19	tial changes in property values or commercial
20	activity;
21	(C) employment, including the potential
22	loss or gain of existing and new jobs in the com-
23	munity;
24	(D) existing businesses and future economic
25	development; and

1	(E) the estimated cost of Federal and State
2	disaster assistance to flood victims.
3	(d) Cost and Benefits of Mapping.—The report re-
4	quired under subsection (a), shall—
5	(1) measure the costs and benefits of mapping
6	erosion hazard areas based upon the Director's esti-
7	mate of the actual and prospective amount of flood
8	insurance claims attributable to erosion. If the Direc-
9	tor determines that the savings to the National Flood
10	Insurance Fund will exceed the cost of mapping ero-
11	sion hazard areas, the Director shall assess whether
12	the expenditures to map erosion hazard areas is the
13	most cost-beneficial use of flood insurance premiums
14	in light of alternative uses of those funds, including—
15	(A) funding the mitigation assistance pro-
16	gram under section 1367 of the National Flood
17	Insurance Act of 1968 (as added by section 643
18	of this Act);
19	(B) funding additional coverage for compli-
20	ance with land use and control measures under
21	section 1304(b) of the National Flood Insurance
22	Act of 1968 (as added by section 662 of this Act);
23	and
24	(C) revising and updating flood insurance
25	rate maps under section 1360(e) of the National

1	Flood Insurance Act of 1968 (as added by section							
2	664 of this Act).							
3	(2) measure the costs and benefits of mapping							
4	erosion, other than those directly related to the finan-							
5	cial condition of the National Flood Insurance Pro-							
6	gram, and the cost of not mapping erosion.							
7	(e) Definition.—For purposes of this section the term							
8	"erosion hazard area" means, based on erosion rate infor-							
9	mation and other historical data available, an area where							
10	erosion or avulsion is likely to result in damage to or loss							
11	of buildings and infrasturcture within a 60-year period.							
12	(f) AUTHORIZATION OF APPROPRIATION.—There are							
13	authorized to be appropriated to the Director \$5,000,000							
14	to carry out this section.							
15	SEC. 666. COORDINATION OF FLOOD INSURANCE RATE MAP							
16	REVISIONS AND UPDATES WITH COASTAL							
17	ZONE MANAGEMENT PROGRAMS.							
18	In General.—In the implementation of revisions to							
19	and updates of flood insurance rate maps, the Director shall							
20	consult and share information with the Under Secretary of							
21	Commerce for Oceans and Atmosphere and representatives							
22	from State coastal zone management programs.							

1	SEC. 667. TECHNICAL MAPPING ADVISORY COUNCIL.
2	(a) Establishment.—There is established a council
3	to be known as the Technical Mapping Advisory Council
4	(hereafter in this section referred to as the "Council").
5	(b) Membership.—
6	(1) In general.—The Council shall consist of
7	the Director, or the Director's designee, and 12 addi-
8	tional members to be appointed by the Director or his
9	designee, and shall include—
10	(A) the Under Secretary of Commerce for
11	Oceans and Atmosphere (or his or her designee),
12	(B) a member of recognized surveying and
13	mapping professional associations and organiza-
14	tions;
15	(C) a member of recognized professional en-
16	gineering associations and organizations;
17	(D) a member of recognized professional as-
18	sociations or organizations representing flood
19	hazard determination firms;
20	(E) a representative of the United States
21	Geologic Survey;
22	(F) a representative of State geologic survey
23	programs;
24	(G) a representative of State national flood

insurance coordination offices;

25

1	(H) a representative of the Federal National								
2	Mortgage Association and the Federal Home								
3	Loan Mortgage Corporation; and								
4	(I) a representative of a regulated lending								
5	institution.								
6	(2) Qualifications.—Members of the Council								
7	shall be appointed based on their demonstrated knowl-								
8	edge and competence regarding surveying, cartog-								
9	raphy, remote sensing, geographic information sys-								
10	tems, or the technical aspects of preparing and using								
11	flood insurance rate maps.								
12	(c) Duties.—The Council shall—								
13	(1) make recommendations to the Director on								
14	how to improve in a cost-effective manner the accu-								
15	racy, general quality, ease of use, and distribution								
16	and dissemination of flood insurance rate maps;								
17	(2) recommend to the Director mapping stand-								
18	ards and guidelines for flood insurance rate maps;								
19	and								
20	(3) transmit an annual report to the Director								
21	describing—								
22	(A) the activities of the Council;								
23	(B) an evaluation of the status and per-								
24	formance of flood insurance rate maps and map-								
25	ping activities to revise and update flood insur-								

1	ance rate maps, as established by the amend-
2	ments made under section 664; and
3	(C) a summary of recommendations made
4	by the Council to the Director.
5	(d) Chairperson.—The members of the Council shall
6	elect 1 member to serve as the chairperson of the Council
7	(hereafter in this section referred to as the "Chairperson").
8	(e) Coordination.—To ensure that the Council's rec-
9	ommendations are consistent to the maximum extent prac-
10	ticable with national digital spatial data collection and
11	management standards, the Chairperson shall consult with
12	the Chairperson of the Federal Geographic Data Committee
13	(established pursuant to OMB Circular A-16).
14	(f) Compensation.—Members of the Council shall re-
15	ceive no additional compensation by reason of their service
16	on the Council.
17	(g) Meetings and Actions.—
18	(1) In general.—The Council shall meet not
19	less than twice each year at the request of the Chair-
20	person or a majority of its members and may take ac-
21	tion by a vote of the majority of the members.
22	(2) Initial meeting.—The Director, or a person
23	designated by the Director, shall request and coordi-
24	nate the initial meeting of the Council.

- 1 (h) Officers.—The Chairperson may appoint officers
- 2 to assist in carrying out the duties of the Council under
- 3 subsection (c).
- 4 (i) Staff of the Federal Emergency Manage-
- 5 MENT AGENCY.—Upon the request of the Chairperson, the
- 6 Director may detail, on a nonreimbursable basis, personnel
- 7 of the Federal Emergency Management Agency to assist the
- 8 Council in carrying out its duties.
- 9 (j) Powers.—In carrying out this section, the Council
- 10 may hold hearings, receive evidence and assistance, provide
- 11 information, and conduct research as it considers appro-
- 12 priate.
- 13 (k) Termination.—The Council shall terminate 5
- 14 years after the date on which all members of the Council
- 15 have been appointed under subsection (b)(1).
- 16 SEC. 668. FUNDING FOR INCREASED ADMINISTRATIVE AND
- 17 OPERATIONAL RESPONSIBILITIES.
- 18 (a) Availability of Fund.—Section 1310(a) of the
- 19 National Flood Insurance Act of 1968 (42 U.S.C. 4017(a)),
- 20 as amended by section 632, is amended in the matter pre-
- 21 ceding paragraph (1), by inserting "(except as otherwise
- 22 provided)'' after ''without fiscal year limitation''.
- 23 (b) Credits of Fund.—Section 1310(b) of the Na-
- 24 tional Flood Insurance Act of 1968 (42 U.S.C. 4017(b)) is
- 25 amended—

1	(1) in paragraph (5), by striking "and" at the								
2	end;								
3	(2) by redesignating paragraph (6) as para-								
4	graph (7); and								
5	(3) by inserting after paragraph (5) the follow-								
6	ing new paragraph:								
7	"(6) any penalties collected under section 102(f)								
8	of the Flood Disaster Protection Act of 1973; and".								
9	SEC. 669. SEPARATE ACCOUNT FOR NATIONAL FLOOD IN-								
10	SURANCE FUND.								
11	Section 1310(a) of the National Flood Insurance Act								
12	(42 U.S.C. 4017(a)) is amended by inserting before "which								
13	shall be available" the following: "which shall be main-								
14	tained in the Treasury as an account separate from any								
15	other funds available to the Director, and".								
16	SEC. 670. NONWAIVER OF FLOOD PURCHASE REQUIREMENT								
17	FOR RECIPIENTS OF FEDERAL DISASTER AS-								
18	SISTANCE.								
19	Section 311(b) of the Robert T. Stafford Disaster Relief								
20	and Emergency Assistance Act (42 U.S.C. 5154(b)) is								
21	amended by adding at the end the following: "The require-								
22	ments of this subsection may not be waived under section								
23	301. ''.								

## SEC. 671. INSURANCE WAITING PERIOD.

2	Section	1308	of the	National	Flood	<i>Insurance</i>	Act	of
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- 3 1968 (42 U.S.C. 4014) is amended by adding at the end
- 4 the following new subsection:
- 5 "(e)(1) The Director shall establish a waiting period
- 6 of not less than 10 days from the presentment of payment
- 7 of a premium for the initial purchase of flood insurance
- 8 under this title. Flood insurance coverage shall not be avail-
- 9 able with respect to any claim for damage incurred during
- 10 such waiting period.
- 11 "(2) This subsection shall not apply to the initial pur-
- 12 chase of flood insurance under this title when the purchase
- 13 of insurance is in connection with the making, increasing,
- 14 extension, or renewal of a loan.".

# 15 SEC. 672. AGRICULTURAL STRUCTURES.

- 16 Section 1361 of the National Flood Insurance Act of
- 17 1968 (42 U.S.C. 4102) is amended by adding at the end
- 18 the following new subsection:
- 19 "(d) AGRICULTURAL STRUCTURES.—
- 20 "(1) Exemption from floodway activity re-
- 21 STRICTIONS.—Notwithstanding any other provision of
- 22 law, the adequate land use and control measures
- 23 adopted in an area (or subdivision thereof) pursuant
- 24 to section 1315(a) may provide, at the discretion of
- 25 the appropriate State or local authority, for the re-

1	pair and restoration to pre-damaged conditions of an
2	agricultural structure that—
3	"(A) is a repetitive loss structure; or
4	"(B) has incurred flood-related damage to
5	the extent that the cost of restoring the structure
6	to its pre-damaged condition would equal or ex-
7	ceed 50 percent of the market value of the struc-
8	ture before the damage occurred.
9	"(2) Definitions.—For purposes of this sub-
10	section—
11	"(A) the term 'agricultural structure' means
12	any structure used exclusively in connection with
13	the production, harvesting, storage, raising, or
14	drying of agricultural commodities; and
15	"(B) the term 'agricultural commodities'
16	means agricultural commodities and livestock.".
17	SEC. 673. IMPLEMENTATION REVIEW BY THE DIRECTOR.
18	Section 1320 of the National Flood Insurance Act of
19	1968 (42 U.S.C. 4027) is amended—
20	(1) by striking "The Director" and inserting
21	"(a) In General.—The Director"; and
22	(2) by adding at the end the following new sub-
23	section:
24	"(b) Effects of Flood Insurance Program.—The
25	Director shall include, as part of the biennial report sub-

- 1 mitted under subsection (a), a chapter reporting on the ef-
- 2 fects on the flood insurance program observed through im-
- 3 plementation of requirements under the National Flood In-
- 4 surance Reform Act of 1994.".

#### 5 SEC. 674. REGULATIONS.

- 6 The Director and the head of any appropriate Federal
- 7 agency may each issue any regulations necessary to carry
- 8 out the applicable provisions of this title and the applicable
- 9 amendments made by this title.

### 10 SEC. 675. PROHIBITED FLOOD DISASTER ASSISTANCE.

- 11 (a) General Prohibition.—Notwithstanding any
- 12 other provision of law, no Federal disaster relief assistance
- 13 made available in a flood disaster area may be used to make
- 14 a payment (including any loan assistance payment) to a
- 15 person for repair, replacement, or restoration for damage
- 16 to any personal, residential, or commercial property if that
- 17 person at any time has received flood disaster assistance
- 18 that was conditional on the person first having obtained
- 19 flood insurance under applicable Federal law and subse-
- 20 quently having failed to obtain and maintain flood insur-
- 21 ance as required under applicable Federal law on such
- 22 property.
- 23 (b) Amendment to the Flood Disaster Protec-
- 24 TION ACT OF 1973.—Section 102(a) of the Flood Disaster
- 25 Protection Act of 1973 (42 U.S.C. 4012a(a)) is amended—

1	(1) by striking '', during the anticipated eco-
2	nomic or useful life of the project, "; and
3	(2) by adding at the end the following: "The re-
4	quirement of maintaining flood insurance shall apply
5	during the life of the property, regardless of transfer
6	of ownership of such property.".
7	(c) Definition.—For purposes of this section, the
8	term "flood disaster area" means an area with respect to
9	which—
10	(1) the Secretary of Agriculture finds, or has
11	found, to have been substantially affected by a natu-
12	ral disaster in the United States pursuant to section
13	321(a) of the Consolidated Farm and Rural Develop-
14	ment Act (7 U.S.C. 1961(a)); or
15	(2) the President declares, or has declared, the
16	existence of a major disaster or emergency pursuant
17	to the Robert T. Stafford Disaster Relief and Emer-
18	gency Assistance Act (42 U.S.C. 5121 et seq.), as a
19	result of flood conditions existing in or affecting that
20	area.
21	(d) Effective Date.—The amendments made by this
22	section shall apply to disasters declared after the date of
23	enactment of the National Flood Insurance Reform Act of
24	1994.

1	TITLE VII—GENERAL
2	<b>PROVISIONS</b>
3	SEC. 701. STUDY OF EFFECT OF THE NORTHERN SPOTTED
4	OWL ON SMALL BUSINESS CONCERNS.
5	(a) Definitions.—For purposes of this section—
6	(1) the term "Administrator" means the Admin-
7	istrator of the Small Business Administration; and
8	(2) the term "small business concerns" has the
9	same meaning as in section 3 of the Small Business
10	Act.
11	(b) Business Study.—The Administrator in con-
12	sultation with the Secretary of the Interior shall conduct
13	a study that analyzes—
14	(1) the nature and extent of economic losses to
15	small business concerns in the forest products indus-
16	try that have occurred as a result of the designation
17	of the Northern spotted owl as a threatened species
18	pursuant to section 4 of the Endangered Species Act
19	of 1973, or that are reasonably likely to occur in the
20	future;
21	(2) the ability of small business concerns to re-
22	coup the fair market value of equipment and other
23	property employed in the harvest and processing of
24	timber prior to the listing of the Northern spotted owl
25	as a threatened species; and

1	(3) the ability of small business concerns in the
2	affected area to offer alternative products or services
3	for which there is a ready or likely suitable market.
4	(c) Report.—
5	(1) In general.—Not later than 6 months after
6	the date of enactment of this section, the Adminis-
7	trator and the Secretary of the Interior shall submit
8	a report of the results of the study conducted under
9	subsection (c) to the President and to the relevant
10	committees of the Senate and the House of Represent-
11	atives.
12	(2) Options.—The report shall include options
13	for Congress and the President for compensating
14	small business concerns for economic losses and for
15	promoting business transition and diversification.
16	(3) Consultation.—In preparing the report,
17	the Administrator and the Secretary of the Interior
18	shall consult with small business concerns in the for-
19	est products industry, and shall solicit comments
20	from the public.
21	SEC. 702. NEGATIVE INFORMATION ABOUT CONSUMER.
22	Section 609(a) of the Fair Credit Reporting Act (15
23	U.S.C. 1681g(a)) is amended by adding after paragraph

24 (3) the following:

1	"(4) The dates, original payees, and amounts of
2	any checks upon which is based any negative infor-
3	mation about the consumer included in the file at the
4	time of the disclosure.".
5	SEC. 703. UNITED NATIONS RESOLUTIONS CONCERNING
6	JERUSALEM.
7	(a) Findings.—The Congress finds that—
8	(1) for three thousand years Jerusalem has been
9	the focal point of jewish religious devotion;
10	(2) Jerusalem is also considered a holy city by
11	the members of other religious faiths;
12	(3) the once thriving Jewish community of the
13	historic Old City of Jerusalem was driven out by
14	force during the 1948 Arab-Israeli War;
15	(4) from 1948 to 1967, Jerusalem was a divided
16	city and Israeli citizens of all faiths as well as Jewish
17	citizens of all states were denied access to holy sites
18	in the area controlled by Jordan;
19	(5) in 1967, Jerusalem was reunited during the
20	conflict known as the Six Day War;
21	(6) since 1967, Jerusalem has been a united city
22	administered by Israel and persons of all religious
23	faiths have been guaranteed full access to holy sites
24	within the city:

1	(7) in 1990, the United States Senate and House
2	of Representatives overwhelmingly adopted Senate
3	Concurrent Resolution 106 and House Concurrent
4	Resolution 290 declaring that Jerusalem, the capital
5	of Israel, "must remain an undivided city";
6	(8) the Vice President has stated the Administra-
7	tion's intention not to "forget the meaning of Jerusa-
8	lem'';
9	(9) the Secretary of State recently reiterated
10	United States opposition to attempts in the United
11	Nations to refer to Jerusalem as "occupied territory",
12	(10) it is reported that the United Nations Secu-
13	rity Council may consider a resolution condemning
14	the Hebron massacre but which also refers to Jerusa-
15	lem as "occupied" territory.
16	(b) Sense of Congress.—Therefore, it is the sense
17	of the Congress that—
18	(1) the Administration should be commended for
19	its efforts not to ''forget the meaning of Jerusalem'
20	and to oppose attempts in the United Nations to refer
21	to Jerusalem as "occupied" territory;
22	(2) sacrificing core principles for short term ob-
23	jectives will ultimately retard, not advance, the peace
24	process;

1	(3) the United States should exercise its veto in
2	the United Nations Security Council on any Security
3	Council resolution that states or implies that Jerusa-
4	lem is ''occupied'' territory.
5	SEC. 704. AMENDMENT TO THE FEDERAL RESERVE ACT.
6	Section 11.—Section 11 of the Federal Reserve Act
7	(12 U.S.C. 248) is amended by inserting at the end thereof
8	the following new subsection:
9	"(p) AUTHORITY.—The Board of Governors of the Fed-
10	eral Reserve System and the Federal Open Market Commit-
11	tee may each act in the Board's or the Committee's own
12	name and through the Board's or the Committee's own at-
13	torneys in enforcing any provision of this title, regulations
14	thereunder, or any other law or regulation, or in any ac-
15	tion, suit, or proceeding to which the Board of Governors
16	of the Federal Reserve System or the Federal Open Market
17	Committee is a party.".
18	SEC. 705. OVERSIGHT HEARINGS.
19	It is the sense of the Senate that—
20	(a) Congress has a constitutional obligation to
21	conduct oversight of matters relating to the operations
22	of the Government, including matters related to any
23	governmental investigations which may, from time to
24	time, be undertaken.

- (b) the Majority Leader and the Republican 1 2 Leader should meet and determine the appropriate 3 timetable, procedures, and forum for appropriate 4 Congressional oversight, including hearings on all matters related to "Madison Guaranty Savings and 5 Loan Association ('MGS&L'), Whitewater Develop-6 ment Corporation and Capital Management Services 7 8 Inc. ('CMS').''.
- 9 (c) no witness called to testify at these hearings 10 shall be granted immunity under sections 6002 and 11 6005 of title 18, United States Code, over the objec-12 tion of Special Counsel Robert B. Fiske, Jr.
- (d) the hearings should be structured and sequenced in such a manner that in the judgment of the Leaders they would not interfere with the ongoing investigation of Special Counsel Robert B. Fiske, Jr.

# 17 SEC. 706. INSURANCE TRANSFER AGREEMENT.

18 (a) Sense of Senate.—It is the sense of the Senate
19 that no insurer shall enter into a transfer agreement or
20 transfer a contract of insurance pursuant to a transfer
21 agreement unless the transferring insurer has first provided
22 or caused to be provided to each policyholder of the insurer
23 affected by the agreement a notice of the intent of the in24 surer to transfer the contract of insurance held by such pol25 icyholder.

1	(b) FORM OF NOTICE.—The notice shall be sent by
2	first-class mail, addressed to the last known address of the
3	policyholder or to the address to which premium notices or
4	other policy documents are sent or, with respect to home
5	service business, by personal delivery with acknowledged re-
6	ceipt. A notice of intent to transfer shall also be sent to
7	the transferring insurer's agent or broker of record on the
8	affected policy.
9	(c) Content of Notice.—The notice required by sub-
10	section (a) shall state or provide—
11	(1) the date the intended transfer and novation
12	of the contract of insurance of the policyholder is pro-
13	posed to take place and become effective;
14	(2) the name, address, and telephone number of
15	the transferring insurer and the assuming insurer
16	under the proposed transfer agreement;
17	(3) that the transfer and novation of the insur-
18	ance contract of the policyholder cannot take effect
19	without the written consent of the policyholder, except
20	as provided in section 5 of this Act;
21	(4) the procedures and any time limitation for
22	consenting to the transfer and novation;
23	(5) a summary informing the policyholder re-
24	garding any adverse effect that the policyholder might

1	experience as a result of consenting to the transfer
2	and novation;
3	(6) a statement that, without the written consent
4	of the policyholder, the transferring insurer will re-
5	main as the insurance company of the policyholder or
6	beneficiary, except as provided in section 5 of this
7	Act;
8	(7) a statement that the assuming insurer is li-
9	censed to write the type of business being transferred
10	in the State where the policyholder resides, or is oth-
11	erwise authorized, under applicable law, to assume
12	such business;
13	(8) the name, address, and telephone number of
14	the person designated by the transferring insurer as
15	the person for receiving the written consent of the pol-
16	icyholder affected by the proposed transfer and nova-
17	tion;
18	(9) the address and telephone number of the chief
19	insurance regulatory official of the State in which the
20	policyholder resides;
21	(10) financial data for the transferring insurer
22	and the assuming insurer involved in the proposed
23	transfer agreement, including—
24	(A)(i) the ratings, together with enough in-
25	formation to understand where the ratings fall

1	within the range of rating categories of each rat-
2	ing agency, for the last 5 years, if available, or
3	if not available for 5 years, for such lesser period
4	as is available, from each nationally recognized
5	insurance company rating organization that has
6	rated the insurer, including an explanation of
7	the meaning of each rating category of each rat-
8	ing organization;
9	(ii) if ratings are unavailable for any year
10	of the 5-year period, a disclosure of this fact; and
11	(iii) a statement that any or all of the
12	above insurance company rating organization
13	reports may be obtained at no cost by writing or
14	calling an address or phone number listed in the
15	statement;
16	(B) a balance sheet as of December 31 for
17	each of the 3 years immediately preceding the
18	notice, if available, or for such lesser period as
19	is available, and as of the date of the most recent
20	quarterly statement;
21	(C) a copy of the Management's Discussion
22	and Analysis that was filed as a supplement to
23	the annual statement of the preceding year; and
24	(D) an explanation of the reason for the

proposed transfer signed by the highest executive

25

1	official of the transferring insurer and the as-
2	suming insurer;
3	(11) a statement setting forth the financial con-
4	dition of the transferring insurer and of the assuming
5	insurer under the proposed transfer agreement, and
6	the effect the transaction will have on the financial
7	condition of each such insurer;
8	(12) an opinion by a disinterested third-party
9	expert, such as an actuary, finding that the transfer
10	is fair and in the best interests of the policyholders
11	affected by the transfer, and a statement that the re-
12	port on which the opinion is based is available at no
13	cost by writing or calling an address and phone num-
14	ber listed in the statement.

Attest:

Secretary.

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- HR 3474 EAS——3
- HR 3474 EAS——4
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